Document 1

Filed 12/14/2007

Page 1 of 106

Case 3:07-cv-06350-PJH

DRINKER BIDDLE & REATH LLP 50 Fremont Street, 20th Floo San Francisco, CA 94105

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Defendants Comcast of Alameda, Inc., Comcast of California II, Inc., Comcast of California III, Inc., Comcast of California IX, Inc., Comcast of California V, Inc., Comcast of California VI, Inc., Comcast of California X, Inc., Comcast of California XIII, Inc., Comcast Corporation, Comcast of Fresno, Inc., Comcast of Marin I, Inc., Comcast of Marin II, Inc., Comcast of Northern California I, Inc., Comcast of Northern California II, Inc., Comcast of Sacramento I, LLC, Comcast of Sacramento II, LLC, Comcast of San Leandro, Inc., and Comcast of Sierra Valleys, Inc. (collectively, "Comcast"), by and through undersigned counsel and pursuant to 28 U.S.C. §§ 1441, 1442, 1446 and 1453, hereby give notice of the removal of the above-captioned action from the Superior Court of California, Alameda County, to the United States District Court for the Northern District of California. In support thereof, Comcast avers as follows.

Introductory Statement

- 1. Plaintiff Jon Hart ("Plaintiff") alleges that Comcast has violated state and federal law by using reasonable network management tools that are designed to prevent a small minority of subscribers from degrading the quality of the broadband Internet service delivered to the great majority of subscribers. The allegations of the complaint track recent filings at the Federal Communications Commission ("FCC" or "Commission") seeking agency action to restrict or to dictate the use of particular Internet network management tools. See In re Free Press, et al., Petition for Declaratory Ruling, WC Docket No. 07-52 (Nov. 1, 2007); In re Vuze, Inc., Pet. to Establish Rules Governing Network Management Practices by Broadband Network Operators, Broadband Indus. Practices, Petition for Rulemaking, WC Docket No. 07-52 (Nov. 14, 2007).
- 2. In 2005, the Commission, albeit without the benefit of a notice-and-comment rulemaking proceeding, endorsed reasonable network management. See In re Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33, Internet Policy Statement, 20 F.C.C.R. 14986, at 2 n.15 (Sept. 23, 2005) ("The principles we adopt are subject to reasonable network management."). The Commission has sought public comment on the question of whether it should adopt rules that might implement, in a formal and enforceable manner, the various principles set forth in its Internet Policy Statement. See In re

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Appropriate Framework for Broadband Access to the Internet over Wireline Facilities;
Universal Serv. Obligations of Broadband Providers; Review of Regulatory Requirements for
Incumbent LEC Broadband Telecomms. Servs.; Computer III Further Remand Proceedings: Bell
Operating Co. Provision of Enhanced Servs.; 1998 Biennial Regulatory Review-Review of
Computer III & ONA Safeguards & Requirements; Conditional Petition of the Verizon Tel. Cos.
For Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Servs. Provided via Fiber
to the Premises; Petition of the Verizon Tel. Cos. for Declaratory Ruling or, Alternatively, for
Interim Waiver with Regard to Broadband Servs. Provided via Fiber to the Premises; Consumer
Protection in the Broadband Era, Report and Order and NPRM, CC Docket Nos. 02-33;01-
337;95-20;98-10; WC Docket Nos. 04-242;05-271, 20 F.C.C.R. 14853, at 14929-35, ¶¶ 146-59
(Aug. 5, 2005); In re Inquiry Concerning High-Speed Access to the Internet Over Cable and
Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for
Broadband Access to the Internet Over Cable Facilities, Declaratory Ruling and Notice of
Proposed Rulemaking, GN Docket No. 00-185; CS Docket No. 02-52, 17 F.C.C.R. 4798, 4839-
54, ¶¶ 72-111 (March 14, 2002); see also In re Broadband Indus. Practices, Notice of Inquiry,
22 F.C.C.R. 7894 (Mar. 22, 2007).

3. This Court has diversity jurisdiction over this putative class action because it falls within the scope of the Class Action Fairness Act of 2005 (CAFA), Pub. L. No. 109-2, 119 Stat. 4 (2005), and alternatively this Court has federal question jurisdiction over this action because it asserts claims that arise under federal law and raise substantial questions of federal law. Accordingly, Comcast hereby removes this action to this Court.

JURISDICTIONAL STATEMENT - DIVERSITY JURISDICTION

4. CAFA grants federal courts jurisdiction over qualifying class actions in which there is minimal diversity, the aggregate amount in controversy exceeds \$5,000,000, and there are 100 or more class members. See 28 U.S.C. §§ 1332(d)(2)(A), 1332(d)(5)(B), 1332(d)(6). It applies to any class action that is commenced on or after its effective date, i.e., February 18, 2005. See 28 U.S.C. § 1332 note. Plaintiff commenced this action on or about November 13, 2007 by filing a putative class action complaint in the Superior Court of California, Alameda

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County, under the caption John Hart v. Comcast of Alameda, Inc., et al., No. 07355993. Accordingly, this action was commenced after CAFA's effective date.

- 5. Plaintiff brings this putative interstate class action on behalf of himself, a California citizen, Pl.'s Compl. ¶ 5 ("Plaintiff John Hart is a citizen of the State of California."), as well as a putative class that includes "all persons in California who purchased the Service between November 13, 2003 and the present and used or attempted to use peer-to-peer or online file sharing applications and/or lotus notes." Id. ¶ 30. That putative class consists of citizens of California such as Plaintiff, as well as citizens of other states who are temporarily located "in," but are not domiciled in, California. See id.; see also Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826, 828 (1989). Defendants are comprised of corporations domiciled inside and outside of California. Accordingly, there is minimal diversity. See 28 U.S.C. § 1332(d)(2)(A).
- 6. Plaintiff alleges that the putative class consists of "thousands of persons" and is so numerous that the joinder of individual members of the putative class is impractical. Plaintiff purports to represent not only current and former subscribers as of the filing of the Complaint, but also customers up to and including the present. See Pl.'s Compl. ¶¶ 30-31.
- 7. To maintain the privacy of its subscribers, Comcast does not track which individual subscribers use or have used peer-to-peer or online file sharing applications. However, independent industry observers suggest that approximately twenty percent (20%) of broadband Internet subscribers have used peer-to-peer or online file sharing applications. See Martin & Westall, Assessing the Impact of BitTorrent on DOCSIS Networks, available at http://people.clemson.edu/~jmarty/papers/bittorrentBroadnets.pdf. Based on the number of Comcast's high-speed Internet subscribers with California billing addresses as of December 2007 (which is confidential and non-public) and the approximate percentage of those subscribers who use or have used peer-to-peer or online file sharing applications on a regular basis (which is confidential and non-public), at least 50,000 of Comcast's high-speed Internet subscribers with billing addresses in California fall within the definition of the putative class. That number would increase substantially if it included subscribers who have used peer-to-peer or online file sharing applications but do not do so on a regular basis, or if it included subscribers who initiate service

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in the future, and if it included subscribers who terminated their service before December 2007. To the extent Plaintiff's class definition seeks to include businesses despite the use of the word "persons," the putative class would be larger still. Accordingly, there are more than 100 members of the putative class. See 28 U.S.C. § 1332(d)(5)(B).

- 8. Plaintiff seeks relief in the form of restitution and disgorgement, specifically an award of monetary damages "calculated as purchase price of the Products here at issue, plus any out-of-pocket costs associated with the replacement of such Products." Pl.'s Compl., Prayer for Relief ¶ H; see also id. ¶¶ F, G. Throughout the first three fiscal quarters of 2007, Comcast's average monthly revenue per high-speed Internet subscriber was approximately \$43.00. See Press Release, Comcast Reports Third Quarter 2007 Results at 10 (Oct. 2007), available at http://media.corporate-ir.net/media_files/irol/11/118591/Earnings_3Q07/release_pdf.pdf. Using that figure, the value of the requested restitution for just the last three months would exceed \$5,000,000.
- 9. Plaintiff also seeks: (i) an award of statutory damages pursuant to California Civil Code § 1780(a)(1), see Pl.'s Compl., Prayer for Relief ¶ I; (ii) an award of "punitive and/or exemplary damages," Pl.'s Compl., Prayer for Relief ¶ I; and (iii) an award of "his reasonable attorneys' fees and costs of suit," Pl.'s Compl., Prayer for Relief ¶ J.
- Plaintiff also seeks relief in the form of an order directing Comcast "to notify each 10. and every member of the Class of the pendency of the claims in this action." Pl.'s Compl., Prayer for Relief ¶ E. Because Comcast does not track which individual subscribers use or have used peer-to-peer or online file sharing applications, Comcast would need to send a mailing to all of its California high-speed Internet subscribers to accomplish the notice requested by the Plaintiff. In light of the number of Comcast's high-speed Internet subscribers with California billing addresses as of December 2007 (which is confidential and non-public), the cost of postage alone would be substantial. Those costs would increase substantially if the cost of generating and coordinating the mailing of the notice were included as well.
- Plaintiff also seeks relief in the form of an order directing Comcast "to conduct a 11. corrective advertising and information campaign. . . . " Pl.'s Compl., Prayer for Relief ¶ C.

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Because Comcast's high-speed Internet subscribers in California are located throughout California, Comcast would need to engage in a multi-faceted regional advertising campaign in order to comply with this request. The cost of that advertising campaign would be substantial.

- 12. Plaintiff also seeks broad injunctive relief that would affect the way Comcast provides and advertises its high-speed Internet service, specifically an order enjoining Comcast "from conducting their business through the . . . business acts or practices . . . described in this Complaint." Pl.'s Compl., Prayer for Relief ¶ B. Because of the nationwide nature of Comcast's high-speed Internet service and its advertisements, notices, and billing system, complying with the requested equitable relief would be substantial.
- Although Comcast denies it has any liability to Plaintiff or the putative class, and denies that any such class could be properly certified under Federal Rule of Civil Procedure 23, the aggregate value of the compensatory, statutory and exemplary damages sought by Plaintiff, as well as the cost to Comcast of complying with the equitable relief sought by Plaintiff, would exceed \$5,000,000.1
- Accordingly, the alleged aggregate amount in controversy exceeds \$5,000,000. See 28 U.S.C. § 1332(d)(6) ("In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.").
- 15. Because this action commenced after February 18, 2005, there is minimal diversity, more than 100 putative class members and an aggregate amount in controversy in excess of \$5,000,000, this Court has original subject matter jurisdiction over this putative class action. See 28 U.S.C. § 1332(d)(2)(A).
- 16. Because this action states a basis for original subject matter jurisdiction under 28 U.S.C. § 1332, it is removable pursuant to 28 U.S.C. § 1441(a).

By removing an action under CAFA, Comcast does not concede that it has any liability, let alone liability of greater than \$5,000,000, to the members of the putative class. See, e.g., Key v. DSW, Inc., No. 06-0459, 2006 WL 2794930, at *7 (S.D. Ohio Sep. 27, 2006).

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JURISDICTIONAL STATEMENT - FEDERAL QUESTION JURISDICTION

- 17. Alternatively, this Court has original jurisdiction over this action because Plaintiff's claims arise under federal law.
- Defendants' blockage or impediment of the Blocked Applications constitutes a violation of the CFAA," the federal Consumer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq., and "whether Defendants' blockage or impediment of the Blocked Applications while permitting unfettered use of other applications constitutes a violation of Federal Communications Commission ("FCC") Policy Statement, FCC 05151." Pl.'s Compl. ¶¶ 32(h), (i). Elsewhere, Plaintiff alleges that Comcast's business practice "violates FCC Policy Statement, FCC 05-155," id. ¶ 49, and "violates the policies behind the CFAA and FCC Policy 05-151." Id. ¶ 96.
- Count VI of Plaintiff's Complaint advances a claim under Section 17200 of California's Unfair Competition Law ("UCL"). See Pl.'s Compl. ¶¶ 84-89. The predicate "unlawful acts" identified by Plaintiff in Count VI of his Complaint are alleged violations of the CFAA and the FCC's Internet Policy Statement in other words, violations of federal law. Accordingly, that claim arises under federal law and can be removed to federal court. See, e.g., Grable & Sons Metal Prods., Inc. v. Darue Eng'g, 545 U.S. 308 (2005); Calif. ex rel. Lockyer v. Dynegy, Inc., 375 F.3d 831, 840 (9th Cir. 2004); D'Alessio v. NYSE, 258 F.3d 93 (9th Cir. 2001); Sparta Surgical Corp. v. NASD, 159 F.3d 1209 (9th Cir. 1998); Brennan v. Sw. Airlines Co., 134 F.3d 1405 (9th Cir. 1998); Nat'l Credit Reporting Ass'n v. Experian Info. Solutions, Inc., C04-01661 WHA, 2004 U.S. Dist. LEXIS 17303 (N.D. Cal. July 21, 2004); Lockyer v. Mirant Corp., 01-1973(HL), 2002 U.S. Dist. LEXIS 14733 (N.D. Cal. Aug. 6, 2002).
- 20. Even if Plaintiff had not invoked federal law as the basis of his claims, this action would still arise under federal law because it raises substantial questions of federal law.
- 21. Congress has declared that "the policy of the United States" is that the Internet, a channel of interstate commerce and communications, should be "unfettered" by state regulation.
 47 U.S.C. § 230(b). By any measure, its decision to free the Internet from state regulation has been a resounding success. When the Internet first emerged, it was accessible to only a handful

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of people. It is now available and affordable to millions of customers, from all parts of the
country and all walks of life, through conduits such as dial-up, broadband (cable, DSL and BPL)
fixed wireless and even satellite. In short, it has become a ubiquitous part of every day life. See,
e.g., U.S. Dept. of Commerce, A Nation Online: Entering The Broadband Age (Sept. 2004),
available at http://www.ntia.doc.gov/reports/anol/NationOnlineBroadband04.pdf.

- Plaintiff's Complaint is a direct assault on Congress's decision to free the Internet 22. from state regulation because it asks a state court to enjoin Comcast from engaging in reasonable network management, which it is expressly permitted to do under federal law, see Policy Statement, 20 F.C.C.R. 14986, at 2 n.15 (Sep. 23, 2005) ("The principles we adopt are subject to reasonable network management."), and which it is required to do if it is to continue delivering a premium broadband experience to its subscribers.
- 23. Also central to those allegations is Plaintiff's belief that California – and by extension each of the fifty states - can and should establish its own unique and inevitably conflicting rules for what network management tools may or may not be used.
- 24. Plaintiff's claims are therefore a direct challenge to the federal government's decision to create a uniform deregulatory environment for the Internet by freeing Internet services from state regulation. As such, Plaintiff's claims are inherently federal in character, and this action is removable to federal court on three separate grounds: (a) the complete preemption doctrine; (b) the substantial federal question doctrine; and (c) the artful pleading doctrine.
- 25. This Court therefore has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337, making this action removable pursuant to 28 U.S.C. §§ 1441(a). To the extent this Court determines that this action presents any state law claims, this Court has supplemental jurisdiction over such claims pursuant to 28 U.S.C. § 1367.

PROCEDURAL STATEMENT

- Pursuant to 28 U.S.C. § 1446(a), true and correct copies of Plaintiff's Complaint, 26. Comcast's Answer and all other process, pleadings and orders that Plaintiff purportedly served on Comcast as of the date of this Notice are attached hereto as Exhibit A.
 - 27. Because Comcast received a copy of Plaintiff's Complaint on or after November

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San Francisco, CA 94105

15, 2007 this Notice of Removal has been timely filed within thirty (30) days of service pursuant to 28 U.S.C. 1446(b). See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

- 28. Pursuant to 28 U.S.C. § 1441(a), removal to the United States District Court for the Northern District of California is proper because that District embraces the Superior Court of California, Alameda County, where this action is currently pending. See 28 U.S.C. § 84(a).
- 29. Pursuant to 28 U.S.C. § 1446(d), Comcast will promptly file a copy of this Notice of Removal in the Superior Court of California, Alameda County, and give written notice of the removal of this action to counsel for Plaintiff.
- 30. By removing the action to this Court, Comcast does not waive any defenses. objections or motions available to it under state or federal law. Comcast expressly reserves the right to require that the claims of certain members of the putative class be decided through arbitration, and to move for judgment in favor of Comcast pursuant to Rules 12 and 56 of the Federal Rules of Civil Procedure.

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1 WHEREFORE, pursuant to 28 U.S.C. §§ 1441, 1446 and 1453, Comcast respectfully removes to federal court the above-captioned civil action, which is currently pending in the 2 3 Superior Court of California, Alameda County. 4 Dated: December 14, 2007 DRINKER BIDDLE & REATH LLP 5 6 7 Attorneys for Defendants 8 COMCAST OF ALAMEDA, INC.: COMCAST OF CALIFORNÍA II, ÍNC. 9 COMCAST OF CALIFORNIA III, INC. COMCAST OF CALIFORNIA IX, INC.; 10 COMCAST OF CALIFORNIA V, INC. COMCAST OF CALIFORNIA VI, INC.; 11 COMCAST OF CALIFORNIA X, INC.: COMCAST OF CALIFORNIA XIII, INC. 12 COMCAST CORPORATION; COMCAST OF FRESNO, INC.; COMCAST OF MARIN 13 I, INC.; COMCAST OF MARIN II, INC.; COMCAST OF NORTHERN CALIFORNIA 14 I, INC.; COMCAST OF NORTHERN CALIFORNIA II, INC.; COMCAST OF 15 SACRAMENTO I, LLC; COMCAST OF SACRAMENTO II, LLC; COMCAST OF 16 SAN LEANDRO, INC.; COMCAST OF SIERRA VALLEYS, INC. 17 Of Counsel 18 Seamus C. Duffy 19 Michael W. McTigue Jr. Michael P. Daly 20 DRINKER BIDDLE & REATH LLP One Logan Square 21 18th & Cherry Streets Philadelphia, Pennsylvania 19103-6996 22 Telephone: (215) 988-2700 Facsimile: (215) 988-2757 23 24 25 26

DRINKER BIDDLE & REATH LLP 50 Fremont Street, 20th Floor San Francisco, CA 94105

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EXHIBIT A

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Service of Process **Transmittal**

11/16/2007

CT Log Number 512796752

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Marin II, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTIONS

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pitf. vs. Comcast of Alameda, Inc., et al. including Comcast of Marin

II, Inc., Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading and other violations of law described in the complaint.

advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS

SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: PER:

C T Corporation System

ADDRESS:

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

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FOR COURT USE ONLY LO PARA NEO DE LA CORTE

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Summons (CITACION JUDICIAL

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is strached.

YOU ARE BEING SUED BY PLAINTIFF; (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

You have 36 CALENDAR DAYS after this extensions and legal papers are served prepared for a written desponse of this court and have a copy served on the plaints. A letter or phone call will not protect you. Your winting need that the lap reper legal form if you went the court to have your come. You are four the court forms and if you went the information at the California Counts Unline Day Help Counts have considered. You are four these count forms and start needs you. If you coinct pay the miles had been count circle for a the seption form. If you do not the your response on thine, you may lose the case by defeat, and your response on thine you may not the death of the your response on thine, you may not the seption of the paper and the paper response on the your response on the your papers. There are clear to got a paper with the case of your case and are the paper of the case of your case and the papers of the case of the papers of the papers. You call locate these dominate groups at the delivers of the papers of the papers of the papers of the papers of the papers. The papers of the papers. The papers of the papers

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The name and address of the point is: (El nombre y dirección de la corte es): Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and triephone number of paintiffs attempt, or plaintiff without an attempt, is:
(El nombre, to discording at number de infolme del abogado del demandante, a del demandante que no llene abogado, esti:
Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122

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SUMMONS

SHORT TITLE:	Hart v. Como	east of Alameda, Inc., et al		CASE MANBER:
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List additional part	ties (Check only on	ie box. Use a separate page for	each type of party):	
CALIFORNIA L COMCAST OF (CORPORATION II, INC.; COMCA II, INC.; COMCA	A, INC.; COMC CALIFORNIA I I; COMCAST O AST OF NORTI	A, INC.; COMCAST OF (OF FRESNO, INC.; COMO HERN CALIFORNIA I, II AMENTO I I I C. COMC	V, INC.; COMCA CALIFORNIA XII CAST OF MARIN NC.; COMCAST	, INC.; COMCAST OF

Page 2 of 2

A WoltersKluwer Company

Service of Process **Transmittal**

11/16/2007

CT Log Number 512796968

TO:

Rosemarie Pierce Comcast Corporation

1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California XIII, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pttf. vs. Comcast of Alameda, Inc., et al. including Comcast of California XIII, Inc., Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Walnut Creek, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemanie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street

TELEPHONE-

Los Angeles, CA 90017 213-337-4615

Page 1 of 1/VI

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SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is attached.

YOU ARE BEING BUED BY FLAINTIFF; (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

SUM-108 FOR COURT VALUE ONLY FROM PARK LED DE LA CONTRO

ENDSPALD

NOV 1 3 2007

PLERK OF THE BUPERLYS COURT By Trajes Peny, Frequity

You have 38 CALENDAR DAYS after title summons and legal japons are served on you to the a written response at this court and have a court dense replaced on the plaints. A letter or phone sed will not promite you. Your written response due to its proper legal form if you went the court to hear your coop. There may be a court form find you use for your response. You can find piece court forms and increased you. If you cannot per the filling Res, and the court fermi-countinest caponizations, you got power from the southings in the court fermi-countinest caponizations. If you do not the your response on this, you may have any other legal and the property in the court of the court fermi-countinest form. If you do not the your response on this, you may have any other legal requirements. You stay went to call any statement of the legal service, it was a facility of the court of the c

the statute and address of the populati (El nombre y dirección de le corte es): Also eda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of plaintiff's etterney, or plaintiff without an attorney, la:

(El nombre, la disacción y el número de foldione del abagado del demandante, o del demandante que no tiene abagado, esti

A by personal delivery on (date):

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94172

Pat S. Sweeten (Secretaria) (For proof of service of this surmance, use Proof of Service of Surantens (form POS-010).)
(Para prueba de entrega de este allafda use el bandiario Pract al Service of Summone, (POS-010)). (Action to)

NOTICE TO THE PERSON SERVED: Yes are served. BEAL] ex the person sized under the fictilious name of tapacity): 3. Don bones of reports Com cast of California under: IXI GCP 416.10 (corporation)

CCF 416.20 (definical corporation) CCP 418.50 (mirror) CCP 418.70 (oddservator) CCP 418:40 (accordation or partie ratio) CCP 416.50 (sufferized person) Other (specify):

Forp Advoted for Headardy Use Joseph County of California Marie 100 (Riv., Jeanny I., 2004)

SUMMONS

0735599

A Wolterskluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512796978

TO:

Rosemarie Pierce Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast Corporation (Domestic State: PA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pttf. vs. Comcast of Alameda, Inc., et al. including Comcast

Corporation, Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: PER: ADDRESS:

C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1/VI

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any Information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of narkage and not contains. confirm receipt of package only, not contents.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form

YOU ARE BEING SUED BY PLAINTIFF; (LO ESTA DEMANDANDO EL DEMANDANTE):
JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

POR COUNT UT E ONLY IN PARA MINING LA CO

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NOV 1 3 2507

PLEAK OF THE SUPERIOR COURT By Tonina Peny, Francis .

You have 30 CALENDAR DAYS after this elements and legal papers are served on your on the a written menomes at this count and have a court to hear your case. There may be a count from that you can use for your response. You must be in proper legal form if you went the count to hear your case. There may be a count from that you can use for your response. You can that these count forms and ingressed you. If you cannot pay the filling the set the count civit for a fee upon from. If you do not like the count forms the count civit for a fee upon from. If you do not like you response on this, you may have any defent, and your wages, money, indepreparty user to be became from the your proposes on this, you may have any other is got requirements. You may reserve any effect any you cannot always from the analysis of the papers of the papers

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Tiene 50 DIAS DE CELEBRARIO chaquele de que le infringués ante cliación y pupales legales para presente em respectado an esta corte y lacor que se empagas tans cobie el dominión de la circula que presente al casa de mente que presente al casa de partido que langua en formación de las cortes y más el republicação de la curio de la corte y más información en el Centro de Ajunta de las Cortes de producto que presente continto exportante para la libitatura de las cortes y más información en el Centro de Ajunta de las Cortes de producto que producto exportante para el partido de las cortes que le de un formación de la corte que le de un formación de la corte que le de un formación de la corte que le despectado en la corte que le de un formación de para de partido de las productos de la corte que le de un formación de para de partido de par

The name and addiess of the court is: (El nombre y dirección de la corte es): Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of pishpire giterray, or plaintiff without an ettomory, is:

(#! nombre, is, discoion y et número de teléfone del aboqueto tel demendante; o del demandante que ne llene aboqueto, est.

Marik N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122

Charte, NOV 1 3. 2007 Pat S. Syncotion (Secretaria).

(For proof of service of this surrange, use Proof of Service of Burnatons (pore POS-018).)

(Pare prueba de extrega de esta chalifor use el formulado Pruet of Service of Summons, (POS-010)). (Adjunta)

NOTICE TO THE PERSON SERVED: You are served as an Individual defendant. sa the person stred under the facilities name of (specify):

3. 1 on behell of poorty Concast Corporation under: GCP 416.10 (corporation)
CCP 416.20 (getwict corporation) DCP.418.80 (migor) CCP 416.70 (comervalue)

CCP 416.40 (association or pertnership)

Cither (specify): ★ □ by personal delivery on (date):

CCP 418.90 (sufficiend parion)

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SUMMONS

A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512796992

TQ;

Rosemarie Pierce Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California X, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and Ali Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of

California X, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: PER: ADDRESS:

C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE

Page 1 of 1/VI

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SUMMONS (CITACION JUDICIAI)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.: Additional Parties Attachment Form is attached.

YOU ARE BEING BUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): ION HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

M CORPTURE ONLY

ENDORRED. ALALEDA CÓLUTA

NOV 1 3 2007

PLERK OF THE BUPERIOR COURT By Tunha Peny, Frequety

You have 30 CALENDAR DAYS after life estimates and legal papers are served on your to be a written response at this court and have a copy sured on the piciniti. A folder or plante old will not protect you. Your written response must be in proper legal form if you went the control to hear your case. There may be a court form that you can use for your response, you saw that have been formed formed count formed and increased you. If you cannot be the miles as the count formed to the count of the c

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The name and exercise of the court is: (El nombre y dirección de la corte ce): Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of painting ottomer, or plainting without an attomer, is:

(El numbre, to discolor y el número de telefone del abagado del demandante, o del demandante que notiene abagado, est.

Mark N. Todzo

Lexington Law Group, LLP 1627 Life Services

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SURMONS

Pages of 5

A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797002

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California V, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pttf. vs. Comcast of Alameda, Inc., et al. including Comcast of

California V. Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE

Within 30 days after service

ATTORNEY(\$) / SENDER(\$):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED:

PER:

ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street Los Angeles, CA 90017

TELEPHONE:

213-337-4615

Page 1 of 1/VI

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Summons	
(CITACION JUDICIA	Ĺ)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is strached.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): ION HART, On Bahaif of Himself and All Others Similarly Situated, and On Behalf of the General Public

FOR COURT USE ONLY LO FERM USO SE CA CO

ERDDRASS ALLEDA COURT

NOV 1 3 2607

PLERK OF THE BUPGRIUM COURT By Tunha Peny, Reputy

You have 30 CALENDAR DAYS after this summote and legal gapers are served on your of the a written response at this count and have a copy amond on the plaints? A lotter or phane call will not prover your your response must be in proper legal form if you ment the count to hear your case. There may be a count form that you can use for your response. Yet san that these count forms and here is also made to the count of the thing of the proper legal form if you ment the information at the California County like things as the count of the transfer can provide things, you make the case of the arms by the fall, and your stage, morey, including they be taken from the your de not the gast supplement on the your may there are other tage! supplements and they you may be taken without further, wanting from the gast.

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he name and address of the court is: (El nombre y dirección de le corte es):

Alameda County Superior Court

Rone C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of plaintiffs attention, or plaintiff without an attention, is:
(El nombre, is, discolón y el número de telefono del abegado del demandante, o del demandante que no tiene abegidos, est.)
Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Suset, San Francisco, CA 94122 (For proof of service of this summons, was Proof of Service of Summons (Date POS-010).) Depaty (Para prueba de entrega de este citation usa el bomulação Pract of Servica of Summidna, (PDS GYO)): NOTICE TO THE PERSON SERVED: You are served. 30 en individual defendant.] saithe person siled sinder the fictilious name of (specify): 3. 1 on beneficiation Comeant of California V under: IV ECP 418.10 (corporation) CCP-418.80 (m/gar) CCP 416.20 (defunct perpotation) CCP 416.70 (odraenvates) CCP 418.40 (association or painterants) CCP 418.50 (methorized person) Cither (specific "

Farm Administration Use Joseph Council of California BLISC-100 (Riv., Massey L. 2004)

SUMMONS

by personal delivery on (date): 1-15 -0-

0735599

A WoltersKiuwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797013

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California IX, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pitt, vs. Comcast of Alameda, Inc., et al. including Comcast of

California IX, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016

SOP Papers with Transmittal, via Fed Ex Standard Overnight, 798311068560

SIGNED: PER: ADDRESS:

C T Corporation System Nancy Flores

818 West Seventh Street

TELEPHONE:

Los Angeles, CA 90017 213-337-4615

Page 1 of 1/VI

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SUMMONS (CITACION JUDICIAI)

NOTICE TO DEFENDANT: (AVISO AL DENIANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is stached.

YOU ARE BEING BUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

FOR COMPLUTE ONLY LO PARA MID DE LA CO

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NOV 1 3 2007

ZERK OF THE BUPERIOR COURT By Tanha being Frequely

You have 36 CALENDAR DAYS after titls sometime and logic japanes are served prepared the a written response at this court and have a copy sound on the plaintiff. A letter or phone said will not present you, Your written response must be in proper legisl form if you want the court to have your copy. There may be a court form that you can use for your response. You can that present specifies and fine court information at the California Carline Said-lifety Curtar Jersen countries. A good said has fine court from the expectation of the said fine court from the expectation of the said fine court from the expectation of the said fine court court from the expectation. If you do not like you response on these you may have any other input requirements. You may exact to that an extensive refers to not there is you cannot alter an attendary you may be allowed the first local and the property of the said and the court of the court local and the court from the cour

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The name and address of the gaint is: (El nombre y dirección de le dorte es): Alasseda County Superior Court

Rene C. Davidson Alameda Courty Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of paintiff's promey, or plaintiff without an attorney, le:

(El nombre, le discolón y el número de relatione del abogado sel demendenie, a del demendenie que no sene abogado, est.

Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122.

NOV. 1 3. 2007 Pat S. Sweeten (Semestra) (Festio) (For proof of service of this summors, use Proof of Service of Semmons (form POS-010).)
(Para prueba de entrega de este ofletión use el formulario Proof of Service of Summons, (PGS-010)): NOTICE TO THE PERSON SERVED: You are served] se en individual defendant . es the firmain sued uniting the fictilious name of (specify): 3. D'an behard Rosent Concast of Galifornia IX under: CP 418.10 (corporation) T CCP 418.80 (minor) CCP 418:20 (defundt porporation)

CCP 416.40 (association or partnership) Cities (specify): by personal delivery on (date):

Form Advance for Honderon Use Justicel County of Chilbrin SUM-100 (Raw, Juneary 1, 2004)

BUMMONS

CCP 4/8.70 (odpisovates)

CCP 4(8.90 (authorized person)

0735599

A WoltersKiuwer Company

Service of Process **Transmittal**

11/16/2007

CT Log Number 512797028

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California II, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pttf. vs. Comcast of Alameda, Inc., et al. including Comcast of

California II. Inc., Dits.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading

advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce, 215-640-7016

SOP Papers with Transmittal, via Fed Ex Standard Overnight, 798311068560

SIGNED: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1/VI

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SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is strached.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

ENDISPASSO PILED ALAMEDA COURT:

NOV 1 3 2007

PLERK OF THE GUPERIOR COURT By Tunha Perly, Deputy

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Rene C. Davidson Alameda County Courthouse

1225 Failon Street, Oakland, CA 94612

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Maris N. Todzo

Lexington Law Group, LLP, 1627 Irolna Si-

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0735599

A WoltersKluwer Company

Service of Process **Transmittal**

11/16/2007

CT Log Number 512797040

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California III, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pitt. vs. Comcast of Alameda, Inc., et al. including Comcast of

California III, Inc., Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: ADDRESS:

C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form हि शक्तिकेष्टे

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): ION HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

FOR COURT USE ONLY TO FROM \$150 DE LA COURTE

ENDOPOSED ALAMEDA COURTA

NOV 1 3 2007

PLERK OF THE BUPERIOR COURT By Tunha Perps Reputy

You have 30 CALENCAR DAYS after this submines and legal papers are served on you in the a written associated this court and have a copy sound on the plaintiff. A fetter or phase ead will not prover you. Your written response must be in proper legal to beer your case. There may be a court form that you can use for your response. You can the California Courts (britter Self-Mein Courts (britter) proved thinks, you for pounty few library, or the court forms and sense you. If you cannot pey the fining he, set the court driet forms the self-out form. If you do not he your response on sink you may be the pour performed an experiment to the sense by default, and your wages, morse, and property say to believe form without further wanting few the your response on sink you may he had not written to the your response on sink you may be believe the property to your response on sink your to talk an attendary refer any other larger provided the few five local special states of the sense affect on attendary you may be eligible for five local special states of the sense affects of the call and program. You can lead to controlled provide a the California Lagal Servicing the old light Cantil for the California Lagal Servicing the call and the court of the call the call the California servicing the call the

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The name and aggress of the good is (El nombre y dirección de la corta es): Alaureda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Failon Street, Oakland, CA 94612

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Lexington Law Group, LLP, 1627

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SUMMONS

A Wolterskluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797056

TO:

Rosemarie Pierce Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of California VI, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of

California VI, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED.

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(\$) / SENDER(\$):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce, 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight, 798311068560

SIGNED: PER: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

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SUM	40	NS
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NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is strached.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Stimpted, and On Behalf of the General Public

FOR COURT USE ONLY LO FERA (ED DE LA COSTE

ENDOPRIED ALALESA COURTY

NOV 1 3 2007

LERK OF THE GUPERNAR COURT By Train Percy, Recuty

You have 30 CALERDAR DAYS after this summan and legal papers are served on you're the a written response at this court and have a copy served on the plainth. A letter or plane call will not protein you, Your written response must be in proper legal form if you went the court to have your case. There may be a court form that you can use for your response. You see that the tenth form if you went the tabernation at the California Courts Unites Self-tell Courts (amountains cauge response), your property for the starting as the California Courts Unites Self-tell Courts (amountains cauge response). tools at the California Courts Guine Self-Holp Co

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(El nombre y dirección de la coria es): Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

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Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122.

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SUMMONS

A Wolterskiuwer Company

Service of Process **Transmittal**

11/16/2007

CT Log Number 512797069

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Sierra Valleys, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of Sierra

Valleys, Inc., Dits.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Walnut Creek, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED:

PER: ADDRESS: C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1/VI

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents,

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEPENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is strached.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

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是对型态的变形数 ALAMEDA COURTA

NOV 1 3 2007

ZERK OF THE BUPERIOR COURT By Tenha Pedy, Figurity

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Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

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Marik N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Brancisco, CA 94122

Danob

NOV. 1 3. 2007 Pat S. Sweeten (Secretaria) (For proof of service of this summons, use Proof of Service of Services) (form POS 010).) (Par product de sensor of the attendance are reconstructed or the continued for the service of Summons, (PUS-OVO));

NOTICE TO THE PERSON BERVED: You are served.

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SUMMONS

A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797076

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Northern California II, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of Northern California II, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311058560

SIGNED: PFR: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street

Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

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SUMMONS (CITACION JUDICIAL

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is susched.

YOU ARE BEING SUED BY PLAINTIFF; (LO ESTA DEMANDANDO EL DEMANDANTE): ION HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

SUM-100

ENDSPREE ALAMONOMY

NOV 1 3 2607

PLEAK OF THE DUPERAYS COURT By Tasha Peny, Deputy

You have 30 CALENDAR DAYS after lifts summons and legal japoirs are served on you to the a written response of this court and have a copy served on the plaintiff. A letter or phone cell will not protein you. Your widon response must be in proper legal form if you want the court to have your case. There may be a court form that you can use for your response. Yet, can that these court forms and summer to an analysis. If you cannot be in proper in the court circle for a less update your. If you do not the mining fee, and the court circle for a less update your. If you do not the your response on this your may. In the court of the summer without the block wanted from the your response on this your may may other legal quadrantable. You may want to the an allowing refer away other legal quadrantable. You may want to the an allowing refer away other legal quadrantable. You may want to the an allowing refer away other legal cannot allow a short a summer and the property with the call the property of the legal appropriate the property of the call the property of the legal appropriate and the call the c

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The name and address of the pour le (El nombre y dirección de le corte es): Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA. 94612
The same, address, and telephone number of pigintiffs attorney, or plaintiff without an attorney, is:
(El nombre, to discorbe y or numero de foldons del abagado tiel demandante, o del demandante que no lle ne abagado, est.
Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122

DATE:	NOV	13.7	m7	Pat S.	Sucetan	Clerk, by	1 2 2 4 5 C		а Репу	Deputy	
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A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797106

TQ:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Sacramento I, LLC (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pitf. vs. Comcast of Alameda, Inc., et al. including Comcast of Sacramento I, LLC, Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce, 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED:

PER: ADDRESS: C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

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SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEHIANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is attached.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public

ENDORRED ALALEOA COLOR

NOV 1 3 2007

ZERK OF THE BUPERLOW COURT By Tunha Pegy, Result

You have 30 CALENDAR DAYS after this summons and legal papers are served on you'de a switten response at this count and have a copy derived on the plaints. A letter or plane call will not protect you. Your winten response must be in proper legal form if you want the court to hear your case. There may be a court form fint you can use for your response. You must be in proper legal form if you want the information at the California Count Online Salf-Majo Count ference counted an appropriate that these counts formed and days passed you. If you counted pay the titing free ask the count elections can grain shiply your may the count of the count elections are specified that you do not the your separate on this you may formed any clear that it is not been propriate in the counter of the counter of

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Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA. 94612
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Marik N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122

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BUMMONS

CT CORPORATION

A Wolterskluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797125

TO:

Rosemarie Pierce Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Marin I, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTIONS

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pitf. vs. Comcast of Alameda, Inc., et al. including Comcast of Marin I, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUF

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: PER: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1 / VI

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SUMMONS (CITACION JUDICIÁL)

NOTICE TO DEFENDANT: (AVISO AL DENANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form is attached.

YOU ARE BEING SUED BY PLAINTIFF; (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Sitnated, and On Behalf of the General Public

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NOV 1 3 2007

LERK OF THE BUPERIOR COURT By Tunha Peny, Fisculty

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Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA. 94612
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Lexington Law Group, LLP, 1627 Irving Street Specificant Ca calego

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SUMMONS

CT CORPORATION

A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797138

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Fresno, Inc. (Domestic State: CA)

ENGLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pttf. vs. Comcast of Alameda, Inc., et al. including Comcast of Fresno,

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Walnut Creek, CA

DATE AND HOUR OF SERVICES

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED:

PER: ADDRESS: C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1/VI

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NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMBDA, INC.; Additional Parties Attachment Form is stracked.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and All Others Similarly Situated, and On Behalf of the General Public SUM-100 FOR COUNT ÉSE ONLY

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NOV 1 3 2007

CLERK OF THE BUPERIUM COURT By Tusha Perium Francy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you're file a written suspensed this court and have a copy served on the plantall. A letter or phone self will not protein you. Your whiten emphase must be in proper legal form if you want the information at the California Courts United Self-leip Carder (week.courtiest.co.) point and have the first you. If you cannot pay the filling the, sat the court court carder care from and there is nearly a part of the growth of the pay the filling the sat the court carder care are also where from a legal to the pay the filling the sat the court carder care also where from a legal the pays response on also, you may

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Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of plaintiff's attempt, or plaintiff without an attempt, is:
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Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122

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SUMMONS

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CT CORPORATION

A Wolterskluwer Company

Service of Process **Transmittal**

11/16/2007

CT Log Number 512797149

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of Sacramento II, LLC (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of Sacramento II, LLC, Drts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading add other violations of law dependants.

advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: ADDRESS:

C T Corporation System

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017

TELEPHONE:

213-337-4615

Page 1 of 1/VI

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SUMMONS	FOR COURT HITE ONLY
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and On Behalf of the General Public	By Tunha Peny, Reculy
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CT CORPORATION

A WoltersKluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797158

TO:

Rosemarie Pierce Comcast Corporation

1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

RE:

Process Served in California

FOR:

Comcast of San Leandro, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of San

Leandro, Inc., Dfts.

DOCUMENT(5) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(5) / SENDER(5):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122 415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: ADDRESS:

C T Corporation System Nancy Flores 818 West Seventh Street Los Angeles, CA 90017 213-337-4615

TELEPHONE-

Page 1 of 1/VI

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Rene C. Davidson Alameda County Courthouse

1225 Failon Street, Oakland, CA. 94612
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Mark N. Todzo

Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122.

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CT CORPORATION

A Wolterskluwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797177

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

Process Served in California

RE: FOR:

Comcast of Northern California I, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:

Jon Hart, On Behalf of Himself and Ali Others Similarly Situated and On Behalf of the General Public, Pltf. vs. Comcast of Alameda, Inc., et al. including Comcast of Northern California I, Inc., Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s), Affidavit(s)

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Walnut Creek, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE-

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED: PER: ADDRESS: C T Corporation System Nancy Flores 818 West Seventh Street

Los Angeles, CA 90017 213-337-4615

TELEPHONE:

Page 1 of 1/VI

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CT CORPORATION

A Wolterskiuwer Company

Service of Process Transmittal

11/16/2007

CT Log Number 512797200

TO:

Rosemarie Pierce

Comcast Corporation 1500 Market Street, 35th Floor Philadelphia, PA 19102-2148

Process Served in California

FOR:

Comcast of Alameda, Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTIONS

Jon Hart, On Behalf of Himself and All Others Similarly Situated and On Behalf of the General Public, Plff. vs. Comcast of Alameda, Inc., et al. including Comcast of

Alameda, Inc., Dfts.

DOCUMENT(S) SERVED:

Summons, Complaint, Attachment(s), Amended Cover Sheet, Stipulation Form(s),

COURT/AGENCY:

Alameda County, Superior Court, CA Case # RG07355993

NATURE OF ACTION:

Class Action - Defendants intentionally impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications - Seeking that the court preliminarily and permanently enjoin defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading actions and the unlawful and the complete.

advertising and other violations of law described in the complaint

ON WHOM PROCESS WAS SERVED:

C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE:

By Process Server on 11/15/2007 at 14:45

APPEARANCE OR ANSWER DUE:

Within 30 days after service

ATTORNEY(S) / SENDER(S):

Mark N. Todzo

Lexington Law Group, LLP 1627 Irving Street San Francisco, CA 94122

415-759-4111

ACTION ITEMS:

Telephone, Rosemarie Pierce , 215-640-7016 SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798311068560

SIGNED:

C T Corporation System

ADDRESS:

Nancy Flores 818 West Seventh Street Los Angeles, CA 90017

TELEPHONE:

213-337-4615

Page 1 of 1 / VI

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mea receipts confirm receipt of package only, not contents.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

COMCAST OF ALAMEDA, INC.; Additional Parties Attachment Form

YOU ARE BEING SUED BY PLAINTIFF; (LO ESTA DEMANDANDO EL DEMANDANTE): JON HART, On Behalf of Himself and Ali Others Similarly Simpred, and On Behalf of the General Public

FOR COURT USE ONLY LD PARA MED DE LA CI

ENDINGRED ALAMEDA COURTY

NOV 1 3 2007

PLERK OF THE GUPERNON COURT By Trains Pergy, Deputy

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Alameda County Superior Court

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street, Oakismd, CA 94612

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Mark N. Todzo

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GENERAL INFORMATION ABOUT ADR

Introduction to Alternative Dispute Resolution

Did you know that most civil lawsuits settle without a trial? And did you know that there are a number of ways to resolve civil disputes without having to sue somebody? These alternatives to a lawsuit are known as alternative dispute resolution (also called ADR). The most common forms of ADR are mediation, arbitration, and neutral evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. In mediation, for example, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through court-connected and community dispute resolution programs and private neutrals.

Advantages of Alternative Dispute Resolution

ADR can have a number of advantages over a lawsuit:

- ADR can be speedier. A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- ADR can save money. Court costs, attorney fees, and expert witness fees can be saved.
- ADR can permit more participation. With ADR, the parties may have more chances to tell their side of the story
 than in court and may have more control over the outcome.
- ADR can be flexible. The parties can choose the ADR process that is best for them.
- ADR can be cooperative. In mediation, for example, the parties having a dispute may work together with the
 neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each
 other.
- ADR can reduce stress. There are fewer, if any, court appearances. And because ADR can be speedier, cheaper, and can create an atmosphere in which the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute instead of filing a lawsuit. Even when a lawsuit has been filed, ADR can be used before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

Disadvantages of Alternative Dispute Resolution

ADR may not be suitable for every dispute.

If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure and review for legal error by an appellate court.

There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

The neutral may charge a fee for his or her services.

If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Lawsuits must be brought within specified periods of time, known as statutes of limitations. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

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Three Common Types of Alternative Dispute Resolution

This section describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

Mediation

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved; the parties do.

Mediation is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Mediation also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how they each see things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or has unequal bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

Arbitration

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records) rather than by testimony.

There are two kinds of arbitration in California: (1) Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and is normally binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. (2) "Judicial arbitration" takes place within the court process and is not binding unless the parties agree at the outset to be bound. A party to this kind of arbitration who does not like a judicial arbitration award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to decide on the outcome of their dispute themselves.

Neutral Evaluation

In evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments and makes an evaluation of the case. Each party gets a chance to present his or her side and hear the other side. This may lead to a settlement or at least help the parties prepare to resolve the dispute later on. If the neutral evaluation does not resolve the dispute, the parties may go to court or try another form of ADR.

Neutral evaluation, like mediation, can come early in the dispute and save time and money.

Neutral evaluation is most effective when a party has an unrealistic view of the dispute, when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Neutral evaluation may not be a good idea when it is too soon to tell what the case is worth or if the dispute is about something besides money, like a neighbor playing loud music late at night.

Other Types of Alternative Dispute Resolution

There are several other types of ADR besides mediation, arbitration, and neutral evaluation. Some of these are conciliation, settlement conferences, fact-finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR methods. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

The selection of a neutral is an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

You may wish to seek the advice of an attorney about your legal rights and other matters relating to the dispute.

Help Finding an Alternative Dispute Resolution Provider in Your Community

To locate a dispute resolution program or private neutral in your community:

- Visit the Court's Web site. The Alameda County Superior Court maintains a list of court-connected mediators, neutral evaluators, and private arbitrators at http://www.co.alameda.ca.us/courts/adr.htm.
- Contact the Small Claims Court Legal Advisor. The small claims legal advisor for Alameda County is located at the Wiley W. Manuel Courthouse, Self-Help Center. The phone number is 510-268-7665.
- Visit the California Department of Consumer Affairs' Web site. The Department of Consumer Affairs (also called the DCA) has posted a list of conflict resolution programs throughout the state. The list can be found at http://www.dca.ca.gov/r_r/mediati1.htm

You can also call the Department of Consumer Affairs, Consumer Information Center, at 800-952-5210.

 Contact your local bar association. You can find a list of local bar associations in California on the State Bar Web site at http://www.calbar.org/2tin/2bar.htm.

If you cannot find a bar association for your area on the State Bar Web site, check the yellow pages of your telephone book under "Associations."

- Look in the yellow pages of your telephone book under "Arbitrators" or "Mediators."
- Automotive Repair, Smog Check: The California Bureau of Automotive Repair (also known as BAR) offers a
 free mediation service for consumers who are dissatisfied with an auto repair or a smog check, or who dispute an
 invoice for such services. BAR registers and regulates California automotive repair facilities and licenses smog,
 lamp, and brake inspection stations. Learn more at http://smogcheck.ca.gov/smogweb/geninfo/otherinfo/
 mediation.htm or call 800-952-5210.
- Attorney Fees: The State Bar of California administers a mandatory fee arbitration program to resolve attorney
 fee disputes between lawyers and their clients. The program is an informal, low-cost forum and is mandatory for a
 lawyer if a client requests it. Mediation of attorney fees disputes may also be available in some areas of
 California, Learn more at http://www.calbar.org/2bar/3arb/3arbndx.htm or call 415-538-2020.

DISPUTE RESOLUTION PROGRAMS IN ALAMEDA COUNTY

Mediation Services

222278 Redwood Road, Castro Valley, CA 94546

Phone: (510) 733-4940 fax: (510) 733-4945

Provides a panel of mediators to assist in the process of reaching an agreement in the areas of Neighborhood Disputes, Child Custody, Divorce, Parent/Teel Conflicts, Home Owners Association, Business, Real Estate, Employer/Employee, and Fremont Rent Increases.

East Bay Community Mediation

1968 San Pablo Avenue, Berkeley, CA 94702-1612

Phone: (510) 548-2377 fax: (510) 548-4051

EBCM is a community-based mediation program created by the union of Berkeley Dispute Resolution Service and Conciliation Forums of Oakland. EBCM offers counseling on options and approaches to resolving a dispute, mediation, large-group conflict facilitation, and conflict resolution skills workshops.

Catholic Charities of the East Bay: Oakland - Main Office

433 Jefferson Street, Oakland, CA 94607

Phone: (510) 768-3100 fax: (510) 451-6998

Mediators are responsible for mediation sessions involving the youth, victim and family members to work towards a mutually agreeable restitution agreement. Also provide free workshops in anger management and mediation.

Center for Community Dispute Settlement

1789 Barcelona Street, Livermore, CA 94550

Phone: (925) 373-1035

Provides services in Tri-Valley for all of Alameda County. Program goals are to increase the number of court cases resolved, mediating small claims cases four days per week, and training youth in listening and conflict resolution skills.

California Lawyers for the Arts: Oakland Office

1212 Broadway Street, Suite 837, Oakland, CA 94612

Phone: (510) 444-6351 fax: (510) 444-6352

This program increases the resolution of arts related disputes such as artistic control, ownership of intellectual property, credit for work performed or produced and contract issues, through the use of alternative dispute resolution. It also increases the capacity to provide services for counseling, conciliation and administration of mediation, arbitration and meeting facilitation.

ALAMEDA COUNTY SUPERIOR COURT ADR PROGRAM

ADR Program Administrator

Pursuant to California Rule of Court 1580.3, the presiding judge of the Superior Court of California, County of Alameda has designated Benjamin D. Stough, Berkeley Trial Court Administrator, to serve as ADR program administrator.

A Plaintiff may elect, the parties may stipulate or a judge may refer a case to Judicial Arbitration. The Judicial Arbitration Program Coordinator may be contacted at (510) 670-6646.

The Judicial Arbitration Process

Appointment of Arbitrator (must be appointed within 30 cays after referral per CRC 1605).

- ⇒ Parties mailed list of five names from which to select. (List mailed within 5-10 business days after receipt of referral).
- ⇒ Each party may reject one of the names listed (10 calendar days per CRC 1605a)
- ⇒ The administrator randomly appoints the arbitrators from the names remaining on the list. If only one remains then is deemed appointed.

Assignment of Case (CRC 1605a(4))

⇒ Within 15 days of notice of the appointment, the arbitrator shall contact parties in writing about time, date, and place of the hearing. The parties shall receive at least 30 days notice prior to the hearing.

Hearings (CRC 1611)

⇒ Shall be scheduled so as to be completed not less than 35 days nor more than 90 days from the date the arbitrator was assigned. For good cause shown, the case may be continued an additional 90 days by the Case Management Judge.

Award of Arbitrator (CRC 1615b & c)

- ⇒ Arbitrator must file an award within 10 days after conclusion of the arbitration hearing. The court may allow 20 additional days upon application of arbitrator is cases of unusual length or complexity.
- ⇒ Within 30 days of the filing of the award the parties may file a Request for Trial de Novo. The clerk shall enter the award as a judgment after 30 days provided a Trial de Novo has not been filed.

Return of Case to Court

- ⇒ Upon Filing of Trial de Novo the action is returned to Case Management Judge for further proceedings. (CRC 1616 & Local Rule 6.4)
- ⇒ If Trial de Novo is not filed then judgment is entered and the Case Management Judge is notified (CRC 1615c & Local Rule 6.6)
- ⇒ If parties indicate a settlement then case is returned to Case Management Judge and case is continued 45 days for an Order to Show Cause RE filing a dismissal. (Local Rule 6.6)

SUPERIOR C	OURT OF CALIFORNIA, COUNT	Y OF ALAMEDA
Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94707	Berkeley Courthouse	George E. McDonald Hall of Justice
Fremont Hall of Justice	2000 Center Street, 2 Fl., Barkeley, CA 94704 Gale/Schenone Hall of Justice	2233 Shoreline Drive, Alameda, CA 94501
39439 Paseo Padre Parkway, Fremont, CA 94538	5672 Stoneridge Drive, Pleasanton, CA 94588	Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA 94607
Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544	René C. Davidson Courthouse	Services Galdary, CA 34007
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Plaintiff	Case N	0.:
vs.	•	
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	DISPI	TE RESOLUTION (ADR)
e e	DIST	TE RESOLUTION (ADK)
Defendant		
The parties by and through their a	ttorneys of record hereby stipulate to submit th	ne within
controversy to the following Alternative Di	spute Resolution process:	
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	ORDER	
The foregoing stipulation having b	een read and considered, and good cause appe	aring, now therefore,
		,
IT IS SO ORDERED.	•	
IT IS FURTHER ORDERED that i	the matter be set for Order to Show Cause Hea	ui nr.
	•	
Dismissal on	ata.m./p.m. in Department _	•
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Dated:		
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SEAL)		

LEXINGTON LAW GROUP, LLP Mark N. Todzo (168389) Brie S. Somers (139050) Howard J. Hirsch (213209) endorsio. . 3 1627 Irving Street ALAMEDA DO PRO V San Francisco, CA 94122 Telephone: (415) 759-4111 Facsimile: (415) 759-4112 NOV 1 8 2007 CLERK OF THE CUPPERION COMAN Atterneys for Plaintiff ION HART By Temp Perry, Listing SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY ALAMEDA JON HART, On Behalf of Himself and All Other Bindlarly Situated, and On Behalf of the General Public, Plaintiff. AFFIDAVET REGARDING PROPER VENUE PURSUANT TO CIVIL CODE COMCAST OF ALAMEDA, INC. COMCAST OF CALIFORNIA II, INC. COMCAST OF CALIFORNIA II, INC. COMCAST OF CALIFORNIA IX, INC. COMCAST OF CALIFORNIA V, INC. COMCAST OF CALIFORNIA V, INC. COMCAST OF CALIFORNIA X, INC. COMCAST OF CALIFORNIA X, INC. COMCAST OF CALIFORNIA XIII, INC. COMCAST OF CALIFORNIA XIII, INC. COMCAST OF MARIN L. INC. COMCAST OF MARIN L. INC. COMCAST OF MARIN L. INC. COMCAST OF MARINE INC. COMCAST OF MARINE INC. COMCAST OF MARINE INC. COMCAST OF MARINE INC. COMCAST OF SACRAMENTO H. LLC. COMCAST OF SERRA VALLEYS, INC., and DOES 1-250 Défendants. 26

I, Mark N. Todzo, declare as follows:

- I am an attorney with the Lexington Law Group, LLP, and I represent Plaintiff 1. Jon Hart ("Plaintiff") in the above-entitled action. This Affidavit is submitted concurrently with the filing of the Complaint pursuant to, and in compliance with, Civil Code §1780(c).
- Venue for this action is proper in Alameda County because a substantial portion 2. of the transaction at issue in the Complaint took place, and is taking place in Alameda County.
- In particular, a substantial portion of the wrongful conduct at the heart of this case, Defendants' transmission of unauthorized hidden messages to the computers of customers who utilize such applications, occurred in Alameda County and affected consumers in Alameda County. Moreover, Defendants' false and misleading representations that Defendant's high speed internet access had qualities, characteristics, uses and/or benefits which it does not, were made in Alameda County.
 - Venue is therefore proper in Alameda County pursuant to Civil Code §1780(c). 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 13, 2007 at San Francisco, California.

SUPERIOR CO	URT OF CALIFORNIA, COUNT	Y OF ALAMEDA
Allen E. Broussard Justice Center	Berkeley Courthouse	George E. McDonald Hall of Justice
690 Washington Street, Oakland, CA 94707 Fremont Hall of Justice	2000 Center Street, 2 rd FL, Barkaley, CA 94704 Gale/Schenone Hall of Justice	2233 Shoreline Drive, Alameda, CA 94501 Wiley W. Manuel Courthouse
39439 Paseo Padre Parkway, Fremont, CA 94538	5672 Stoneridge Drive, Pleasanton, CA 94588	661 Washington Street, Oakland, CA 94507
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The parties by and through their atto	omeys of record hereby stipulate to submit the	ne within
controversy to the following Alternative Dis	anta Basalutian massas	•
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•	ORDER	
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The foregoing supulation having be-	en read and considered, and good cause appo	aring, now inererore,
IT IS SO ORDERED.		
IT IS FURTHER ORDERED that th	e matter be set for Order to Show Cause Hea	aring RE:
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LEXINGTON LAW GROUP, LLP Mark N. Todzo (168389) Eric S. Somera (139050) 2 endorsed. Howard J. Hirsch (213209) 1627 Irving Street ALAMEDA GOTTO Y San Francisco, CA 94122 Telephone: (415) 759-4111 4 NOV 1 8 2007 Facamile: (415) 759-4112 CLERKORTHE SUPPLIED CONN Attorneys for Plaintiff
10N HART. By Taking Telly, Liebby SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY ALAMEDA JON HART, On Behalf of Himself and All Other Similarly Situated, and On Behalf of the General Public. Plaintiff. APPIDAVET REGARDING PROPER VENUE PURSUANT TO CIVIL CODE 15 COMCAST OF ALAMEDA, INC., COMCAST OF CALIFORNIA II, INC., COMCAST OF CALIFORNIA III, INC., COMCAST OF CALIFORNIA IX, INC., COMCAST OF CALIFORNIA V. INC., COMCAST OF CALIFORNIA X, INC., COMCAST OF CALIFORNIA X, INC., COMCAST OF CALIFORNIA XIII, INC., COMCAST OF FRESNO, INC., COMCAST OF MARIN I. INC., COM COMCAST OF MARINT INC.
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COMCAST OF SIERRA VALLEYS, INC., and
DOES 1-250 25 Defendants. 27

I, Mark N. Todzo, declare as follows:

I am an attorney with the Lexington Law Group, LLP, and I represent Plaintiff Jon Hart ("Plaintiff") in the above-entitled action. This Affidavit is submitted concurrently with the filing of the Complaint pursuant to, and in compliance with, Civil Code §1780(c).

Filed 12/14/2007

- Venue for this action is proper in Alameda County because a substantial portion of the transaction at issue in the Complaint took place, and is taking place in Alameda County.
- In particular, a substantial portion of the wrongful conduct at the heart of this case, Defendants' transmission of unauthorized hidden messages to the computers of customers who utilize such applications, occurred in Alameda County and affected consumers in Alameda County. Moreover, Defendants' false and misleading representations that Defendant's high speed internet access had qualities, characteristics, uses and/or benefits which it does not, were made in Alameda County.
 - Venue is therefore proper in Alameda County pursuant to Civil Code §1780(c). 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 13, 2007 at San Francisco, California.

COMPLAINT - HARTY COMCAST

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Plaintiff Jon Hart ("Plaintiff"), on behalf of himself, those similarly situated, and the general public, based on information and belief and investigation of his counsel, except for information based on personal knowledge, hereby alleges:

NATURE OF ACTION

- 1. Defendants advertise, market and sell their high speed internet service (the "Service") based on claims of "lightning fast" and "mind-blowing" speeds. Defendants further promise their customers and prospective customers that they will have "unfettered access to all the internet has to offer." Nevertheless, Defendants intentionally and severely impede the use of certain internet applications by their customers, slowing such applications to a mere crawl or stopping them altogether. This class action complaint seeks to end Defendants' practice and seeks recovery of fees paid by customers who paid for services they did not receive.
- 2. Defendants' breach of their promises to provide unfettered access to the internet constitutes a breach of its contract as well as a breach of the implied covenant of good faith and fair dealing. Defendants' marketing and advertising, all of which is based on representations of the speed at which users may download and upload content onto the internet is deceptive, given Defendants' practice of severely limiting the speed of certain internet applications such as peer-to-peer file sharing and lotus notes (the "Blocked Applications"). As such, Defendants' advertising practices violate the Consumers Legal Remedies Act (Civil Code §1750, et seq., hereinafter the "CLRA"), and constitute an unlawful, unfair and fraudulent business practice under Business & Professions Code §17500.1
- 3. Defendants impede their customers' access to the Blocked Applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications. These transmissions severely impair and/or completely block the customers' use of the Blocked Applications by telling the computers to stop communicating via such applications. Thus, Defendants' unauthorized interference with its customers' computers results

All statutory references herein are to California statutes, unless otherwise noted.

in such customers' loss of use of their computers and the Service. Accordingly, Defendants' practice constitutes unlawful acts in violation of the Computer Fraud and Abuse Act, 18 U.S.C. §1030 (the "CFAA"). Additionally, by impairing use of the Blocked Applications while permitting the unimpaired use of other applications, Defendants unfairly discriminate against certain internet applications, in violation of established Federal Communications Commission ("FCC") policy.

4. Accordingly, Plaintiff and the class seek contract damages to compensate them for the impediments to their Service. Plaintiff and the class further seek an order enjoining Defendants' acts of unfair competition and false and misleading advertising and awarding restitution to the individual victims of Defendants' unfair and deceptive practices pursuant to Business & Professions Code §§17203 and 17535. In addition, Plaintiff and the class of similarly situated California individuals on whose behalf Plaintiff brings this action seek an injunction and actual and punitive damages pursuant to the CLRA.

PARTIES

- 5. Plaintiff Jon Hart is a citizen of the State of California. Plaintiff is a "person" within the meaning of Business & Professions Code §17204, and brings this action on behalf of himself, those similarly situated and the general public. Plaintiff is a purchaser of the Service and has experienced severe limitations on the speed of the Service when he utilizes Blocked Applications.
- 6. Defendant Comcast of Alameda, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Alameda, Inc. distributes, markets and/or sells the Service for use in California.
- 7. Defendant Comcast of California II, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California II, Inc. distributes, markets and/or sells the Service for use in California.

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- 8. Defendant Comcast of California III, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California III, Inc. distributes, markets and/or sells the Service for use in California.
- 9. Defendant Comcast of California IX, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California IX, Inc. distributes, markets and/or sells the Service for use in California.
- 10. Defendant Comcast of California V, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California V, Inc. distributes, markets and/or sells the Service for use in California.
- 11. Defendant Comcast of California VI, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California VI, Inc. distributes, markets and/or sells the Service for use in California.
- 12. Defendant Comcast of California X, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California X, Inc. distributes, markets and/or sells the Service for use in California.
- 13. Defendant Comcast of California XIII, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of California XIII, Inc. distributes, markets and/or sells the Service for use in California.
- 14. Defendant Comcast Corporation is a Pennsylvania corporation and is a person within the meaning of Business & Professions Code §17201. Comcast Corporation distributes, markets and/or sells the Service for use in California.
- 15. Defendant Comcast of Fresno, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Fresno, Inc. distributes, markets and/or sells the Service for use in California.
- Defendant Comcast of Marin I, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Marin I, Inc. distributes, markets and/or sells the Service for use in California.

- 17. Defendant Comcast of Marin II, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Marin II, Inc. distributes, markets and/or sells the Service for use in California.
- 18. Defendant Comcast of Northern California I, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Northern California I, Inc. distributes, markets and/or sells the Service for use in California.
- 19. Defendant Comcast of Northern California II, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Northern California II, Inc. distributes, markets and/or sells the Service for use in California.
- 20. Defendant Comcast of Sacramento I, LLC is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Sacramento I, LLC distributes, markets and/or sells the Service for use in California.
- Defendant Comcast of Sacramento II, LLC is a California corporation and is a 21. person within the meaning of Business & Professions Code §17201. Comcast of Sacramento II, LLC distributes, markets and/or sells the Service for use in California.
- 22. Defendant Comcast of San Leandro, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of San Leandro, Inc. distributes, markets and/or sells the Service for use in California.
- 23. Defendant Comcast of Sierra Valleys, Inc. is a California corporation and is a person within the meaning of Business & Professions Code §17201. Comcast of Sierra Valleys, Inc. distributes, markets and/or sells the Service for use in California.
- 24. Defendant Does 1 through 250 are persons or entities whose true names and capacities are presently unknown to Plaintiff, and who therefore are sued by such fictitious names. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants perpetrated some or all of the wrongful acts alleged herein and are responsible in some manner for the matters alleged herein. Plaintiff will amend this complaint to state the true names and capacities of such fictitiously named defendants when ascertained.

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- 25. The term "Defendants," as used herein, is defined to mean the Defendants named in paragraphs 6-23, as well as all Defendant DOES 1-250.
- 26. At all times herein mentioned, each defendant was the agent, servant, employee, co-conspirator and/or joint venturer of each of the other defendants. In doing the things alleged in the causes of action stated herein, each and every defendant was acting within the course and scope of this agency, employment, conspiracy, and/or joint venture, and was acting with the consent, permission and authorization of each of the other defendants. All actions of each defendant, as alleged in the causes of action stated herein, were ratified, approved and/or authorized by every other defendant with full knowledge of such acts. Defendants are thus jointly and severally liable for such actions.

JURISDICTION AND VENUE

- 27. The Court has jurisdiction over this action pursuant to Business and Professions Code §17203, which allows enforcement in any court of competent jurisdiction. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, §10, which grants the Superior Court "original jurisdiction in all cases except those given by statute to other trial courts." The statutes under which this action is brought do not grant jurisdiction to any other trial court.
- 28. This Court has jurisdiction over Defendants because each is a corporation or partnership that has sufficient minimum contacts in California, is a citizen of California, or otherwise intentionally avails itself of the California market through its marketing and sales of the Service in the State of California and/or by having such other contacts with California so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.
- 29. Venue is proper in the Alameda Superior Court pursuant to California Code of Civil Procedure Code ("CCP") §§395 and 395.5, Business & Professions Code §17204 and Civil Code §1780(c) because Defendants do business in this county, at least part of the liability arose

asserted herein occurred in this county.

§1781, on behalf of himself and the class defined as follows:

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CLASS ACTION ALLEGATIONS

in this county, and a substantial part of the events and conduct giving rise to the violations of law

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30. Plaintiff brings this suit as a class action pursuant to CCP §382 and Civil Code

all persons in California who purchased the Service between November 13, 2003 and the present and used or attempted to use peer-to-peer or online file sharing applications and/or lotus notes. Specifically excluded from this Class are Defendants; the officers, directors or employees of Defendants; any entity in which Defendants have a controlling interest; and any affiliate, legal representative, heir or assign of Defendants. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

(the "Class").

- 31. The Class is sufficiently numerous as it includes hundreds or thousands of persons who have purchased the Service throughout California. Thus, joinder of such persons in a single action or bringing all members of the Class before the Court is impracticable. The disposition of the Class members' claims in this class action will substantially benefit both the parties and the Court.
- 32. There is a well-defined community of interest in the questions of law and fact involved in this action and affecting the parties. These common questions of law and fact substantially predominate over any questions that may affect only individual Class members. Among these common questions of law and fact are:
- (a) whether Defendants advertise and market the Service by promoting the speed at which its customers may download and upload data from the internet;
- (b) whether Defendants promise that customers of the Service will be provided with unfettered access to the internet;
 - (c) whether Defendants block the Blocked Applications;
 - (d) whether Defendants impede the Blocked Applications;

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1	(e) whether Defendants' blockage or impediment of the Blocked Applications
2	constitutes a breach of the contract;
. 3	(f) whether there is an enforceable written contract between Defendants and
4	the Class;
5	(g) whether Defendants' blockage or impediment of the Blocked Applications
6	results in aggregate loss by the Class in excess of \$5000;
7	(h) whether Defendants' blockage or impediment of the Blocked Applications
8	constitutes a violation of the CFAA;
. 9	(i) whether Defendants' blockage or impediment of the Blocked Applications
10	while permitting unfettered use of other applications constitutes a violation of Federal
11	Communications Commission ("FCC") Policy Statement, FCC 05151;
12	(j) whether Defendants' marketing and advertising is likely to deceive the
13	Class; and
14	(h) whether members are entitled to compensatory, injunctive and other
15	equitable relief.
16	33. Plaintiff asserts claims that are typical of the claims of the entire Class. Plaintiff
17	and all Class members have been subjected to the same wrongful conduct because they have
18	purchased the Service, which does not perform in the manner that Defendants represent.
19	Plaintiff and the Class have thus all overpaid for the Service.
20	34. Plaintiff will fairly and adequately represent and protect the interests of the other
21	Class members and has no interests antagonistic to those of other Class members. Plaintiff is
22	committed to the vigorous prosecution of this action and has retained counsel experienced in
23	litigation of this nature to represent him. Plaintiff anticipates no difficulty in the management of
24	this litigation as a class action.
25	35. Proceeding as a class action provides substantial benefits to both the parties and
26	the Court because this is the most efficient method for the fair and efficient adjudication of the
27	controversy. Class members have suffered and will suffer irreparable harm and damages as a
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result of Defendants' wrongful conduct. Because of the nature of the individual Class members' claims, few, if any, could or would otherwise afford to seek legal redress against Defendants for the wrongs complained of herein, and a representative class action is therefore appropriate, the superior method of proceeding, and essential to the interests of justice insofar as the resolution of Class members' claims is concerned. Absent a representative class action, Class members would continue to suffer losses for which they would have no remedy, and Defendants would unjustly retain the proceeds of their ill-gotten gains. Even if separate actions could be brought by individual members of the Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants, as well as create a risk of inconsistent rulings which might be dispositive of the interests of the other Class members who are not parties to the adjudications and/or may substantially impede their ability to protect their interests.

BACKGROUND FACTS

- 36. Defendants market and/or sell the Service. The Service is designed to provide Defendants' customers with high-speed access to the internet. Accordingly, Defendants refer to, market and sell the Service under the name "High Speed Internet."
- The speed at which a user is able to access the internet is one of the most 37. important aspects of internet service. Internet access speed is particularly important for individuals who download and/or upload large files and is thus particularly material to Plaintiff and members of the Class.
- 38. Users of the Blocked Applications typically download and/or upload large files, so internet access speed is particularly important to such users.
 - 39. Plaintiff and the Class are users of Blocked Applications.
- 40. Defendants' advertising and marketing of the Service revolves around claims regarding the speed of the Service. For example, Defendants make the following representations concerning the Service in their advertising:
 - Get on the fast track...fast. With Comcast High-Speed Internet, surf the web at lightning speed;

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- Stop crawling the web and start burning rubber with scorching speeds.
- Stop crawling the web and start burning rubber with our Performance (6 Mpbs) service! And now with PowerBoost, our fast connection gets even faster.
- Zoom around the web at mind-blowing speeds.
- Comcast High-Speed Internet delivers everything you need to get the most from your Internet experience. Download at crazy-fast speeds.
- Our customers enjoy unfettered access to all the content, services, and applications that the internet has to offer.
- Way faster than DSL ... up to 4 times faster than 1.5 Mbps DSL and up to twice as fast as 3.0 Mbps DSL.
- 41. Plaintiff upgraded his internet service to Defendants' High-Speed Internet Performance Plus in September 2007 in order to gain faster uploads and downloads to and from the internet. A major reason for the upgrade, was to enable Plaintiff to utilize the Blocked Applications, which require high speed internet access.
- 42. Defendants have numerous different terms of service and/or use posted on their website. In addition, at the time a potential subscriber attempts to purchase the service on Defendants' website, a scroll window opens with the Comcast High-Speed Internet Subscriber Agreement (the "Agreement"). Although only 10-15 lines of text are visible at one time in the scroll box, if the Agreement is cut and pasted into a word processor, it is 22 pages of singlespaced text. Given these different documents referencing the terms of use of the Service, it is not easy to determine what, if any contract applies to the Service. However, all of the different terms of service promise that Defendants will provide the Service. Many of the terms of service explicitly reference the internet access speeds. For example, the Terms and Conditions state that "Comcast speed tiers range from 4.0 to 16.0 Mbps download speed (maximum upload speed from 384Kbps to 786Kbps respectively)." Significantly, none of the terms of service state that

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Comcast can or will impede, limit, discontinue, block or otherwise impair or treat differently the Blocked Applications.

- 43. Plaintiff and Class members have performed their obligations under the terms of their agreements with Defendants by paying their monthly charges.
- 44. Nevertheless, Defendants severely impede and/or block the Blocked Applications used by Plaintiff and the Class. As a result of Defendants' impairment, Plaintiff and the Class experience internet upload and download speeds for the Blocked Applications that are exponentially slower than the speeds advertised by Defendants and/or experience complete blockage of their file sharing applications.
- 45. Defendants actively and intentionally slow and/or block the Blocked Applications by sending hidden messages to computers that are running file sharing applications. These hidden messages appear to the computer as coming from the other computers with which it is sharing files, telling it to stop communicating. The result is that file sharing applications are completely blocked or severely impeded.
- 46. Plaintiff and the Class did not authorize Defendants to send them hidden messages in order to block and/or impair their use of the Blocked Applications.
- 47. Plaintiff and the Class have suffered damage as a result of Defendants' transmission of unauthorized messages. Plaintiff and the Class have suffered a loss of use of their computers and the Service as a result of Defendants' unauthorized transmissions: The loss to Plaintiff and the Class exceeds \$5,000.
- 48. On September 23, 2005, the FCC issued a Policy Statement, FCC 05-155, that set out its policy that internet network services should be operated in a neutral manner. The FCC's policy of network neutrality furthers a number of principles including that:
 - "consumers are entitled to access the lawful Internet content of their choice;
 - * "consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.

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Applications.

. 1	49. Defendants' policy of discriminating against use of the Blocked Applications
2	violates FCC Policy Statement, FCC 05-155.
3	FIRST CAUSE OF ACTION
4	(Breach of Contract)
5	50. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 49
. 6	of this Complaint.
7	51. Plaintiff and the Class entered into a written or implied contract with Defendants
8	to pay monthly fees in order to obtain the Service.
9	52. Plaintiff and members of the Class performed their obligations under the contract
10	by paying their monthly fees. Nevertheless, Defendants unjustifiably breached the contract by
11	restricting Plaintiff's and the Class' access to, and use of, the Service.
. 12	53. Plaintiff and members of the Class were damaged by Defendants' breach of the
13	contract in that they did not receive the Service for which they paid, and are therefore entitled to
14	damages according to proof at trial.
15	Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.
16	SECOND CAUSE OF ACTION
. 17	(Breach of Implied Covenant of Good Faith and Fair Dealing)
18	54. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 53
19	of this Complaint.
20	55. In exchange for payment of a monthly fee by Plaintiff and the Class, Defendants
21	agreed to provide the Service to Plaintiff and the Class. Defendants did not inform Plaintiff and
22	the Class that it could or would limit their service by impeding and/or blocking the Blocked
23	Applications. In fact, Defendants told Plaintiff and the Class that they would "enjoy unfettered
-24	access to all the content, services, and applications that the internet has to offer."
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25	56. Plaintiff and members of the Class purchased the Service with the reasonable

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. 57	In addition, Plaintiff and members of the Class purchased the Service with the
reasonable	e expectation that Defendants would deal with them honestly, fairly, equitably, in good
faith and i	n full conformity with the fundamental and implied terms of the contract. Defendants
brought at	out and intended this expectation through the language used in its terms of use and in
the Agreer	nent, through their advertising, and through the express representations of their
employees	, agents and representatives.

- 58. In breach of the covenant of good faith and fair dealing, Defendants have blocked and/or impeded use of the Service by Plaintiff and the Class by impairing use of the Blocked Applications. Defendants have thus unreasonably denied Plaintiff and Class members the benefit of their bargain.
- 59. Defendants have materially and fundamentally breached the duty of good faith and fair dealing owed to Plaintiff and members of the Class in at least the following respects:
- a. Unreasonably, secretly, and in bad faith scheming to impede use of the Blocked Applications;
- b. Unreasonably and in bad faith failing to clearly and definitely notify
 Plaintiff and members of the Class of the fact that Plaintiff and members of the Class would be unable to use the Blocked Applications;
- c. Unreasonably and in bad faith continuing to misrepresent to Plaintiff and members of the Class that they would enjoy unfettered access to the internet, when in fact Defendants were impeding their access to the internet; and
- d. Unreasonably and in bad faith putting the interest of Defendants ahead of Plaintiff and the Class members.
- 60. Defendants' conduct represents a failure and/or refusal to discharge their contractual responsibilities, prompted by a conscious and deliberate act, which unfairly frustrates the agreed common purposes and disappoints the reasonable expectations of Plaintiff and members of the Class and thereby deprives Plaintiff and members of the Class of the benefits of the agreed-upon terms in the Agreement.

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61.	Plaintiff and members of the Class performed their obligations under the writter
or implied co	ntract by paying their monthly fees.

62. Plaintiff and members of the Class were damaged by Defendants' breach of the covenant of good faith and fair dealing in that they did not receive the benefits of the Service for which they paid, and are therefore entitled to damages according to proof at trial.

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

THIRD CAUSE OF ACTION

(Violations of the Consumer Legal Remedies Act - Injunctive Relief Only)

- 63. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 62 of this Complaint.
- 64. The acts and practices of Defendants as described above were intended to deceive Plaintiff and the Class members as described herein and has resulted and will result in damages to Plaintiff and the Class members. These actions violated and continue to violate the CLRA in at least the following respects:
- a. In violation of Section 1770(a)(5) of the CLRA, Defendants' acts and practices constitute representations that the Service has characteristics, uses and/or benefits which it does not;
- b. In violation of Section 1770(a)(7) of the CLRA, Defendants' acts and practices constitute representations that the Service is of a particular quality which it is not; and
- c. In violation of Section 1770(a)(9) of the Act, Defendants' acts and practices constitute the advertisement of the goods in question without the intent to sell them as advertised.
- 65. By reason of the foregoing, Plaintiff and the Class members have been irreparably harmed.
 - 66. By committing the acts alleged above, violated the CLRA.
- 67. In compliance with the provisions of California Civil Code §1782, in conjunction with the filing of this action, while the Complaint is an appropriate notice of violation, Plaintiff

will notify Defendants in writing of the particular violations of §1770 of the Act and demand Defendants rectify the actions described above by refunding the purchase price and give notice to all affected consumers of their intent to do so. Plaintiff will send this notice by certified mail, return receipt requested, to Defendants' principal places of business.

- 68. If Defendants fail, within thirty days after receipt of the §1782 notice, to adequately respond to Plaintiff's demand to rectify the wrongful conduct described above on behalf of all Class members, Plaintiff will amend the Complaint to seek actual and punitive damages for violations of the CLRA.
- 69. Plaintiff and Class members are entitled, pursuant to California Civil Code §1780(a)(2), to an order: (1) enjoining the above-described wrongful acts and practices; (2) requiring payment of damages to Plaintiff and the Class; and (3) requiring the payment of restitution to Plaintiff and the Class. In addition, Plaintiff and the Class are entitled to the payment of costs and attorneys' fees and any other relief deemed appropriate and proper by the Court under California Civil Code §1780(d).

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

FOURTH CAUSE OF ACTION

(Violations of Business & Professions Code §17200 et seq. Based On Fraudulent Acts And Practices)

- 70. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 69 of this Complaint.
- 71. Under Business & Professions Code §17200, any business act or practice that is likely to deceive members of the public constitutes a fraudulent business act or practice.
- 72. Defendants have engaged and continue to engage in conduct that is likely to deceive Plaintiff and members of the Class, all of whom are members of the general public. This conduct includes, but is not limited to, promoting and advertising the fast speeds that apply to the Service without limitation, when, in fact, Defendants severely limit the speed of the Service for certain applications. It further includes Defendants' misrepresentations that its customers will enjoy "unfettered access" to all internet applications, when, in fact, Defendants not only fetter

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sharing applications, while actively limiting and/or blocking such applications. The speed at which a user is able to access the internet is an important and 73. material factor to consumers of high speed internet services and is especially important and material to users of Blocked Applications including Plaintiff and the Class.

certain applications, but completely block them. Further, Defendants deceive consumers into

purchasing the Service in the mistaken belief that they will be able to utilize the Service for file

- By committing the acts alleged above, Defendants have engaged in fraudulent 74. business acts and practices, which constitute unfair competition within the meaning of Business & Professions Code §17200.
- 75. Plaintiff and the Class have all paid money for the Service. However, Plaintiff and the Class did not obtain the full value of the advertised Service due to Defendants' undisclosed obstruction of certain file sharing applications. Accordingly, Plaintiff and the Class have suffered injury in fact and lost money or property as a result of Defendants' acts of false advertising.
- An action for injunctive relief and restitution is specifically authorized under 76. Business & Professions Code §17203.

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

FIFTH CAUSE OF ACTION

(Violations of Business & Professions Code §17500 et seq.)

- 77. Plaintiff realleges and incorporates by reference as if specifically set forth herein Paragraphs 1 through 76 inclusive.
- 78. Business & Professions Code §17500 provides that it is unlawful for any corporation to knowingly make, by means of any advertising device or otherwise, any untrue or misleading statement with the intent to sell a product or service, or to induce the public to purchase a product or service. Any statement in advertising that is likely to deceive members of the public constitutes false and misleading advertising under Business & Professions Code §17500.

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79	Defendants have disseminated, and continues to disseminate advertising, that they
know or s	uld reasonably know is false and misleading. This conduct includes, but is not
limited to	comoting and advertising the fast speeds that apply to the Service without limitation,
when, in f	t, Defendants severely limit the speed of the Service for certain applications. It
	des Defendants' misrepresentations that their customers will enjoy "unfettered
access" to	internet applications, when, in fact, Defendants not only fetter certain applications,
out comple	ly block them. Defendants know or reasonably should know that this advertising is
	leading as set forth in detail in the preceding paragraphs.

- By committing the acts alleged above, Defendants have knowingly disseminated 80. untrue and/or misleading statements in an advertising or other device in order to sell or induce members of the public to purchase the Service, in violation of Business & Professions Code §17500.
- 81. Plaintiff and the Class have all paid money for the Service. However, Plaintiff and the Class did not obtain the full value of the advertised Service due to Defendants' undisclosed obstruction of the Blocked Applications. Accordingly, Plaintiff and the Class have suffered injury in fact and lost money or property as a result of Defendants' acts of false advertising.
- An action for injunctive relief and restitution is specifically authorized for 82. violations of Business & Professions Code §17500 et seq. under Business & Professions Code §17535. Business & Professions Code §17534.5 provides that "the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state."

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

SIXTH CAUSE OF ACTION

(Violations of Business & Professions Code §17200 et seq. Based on Commission of Unlawful Acts)

Plaintiff realleges and incorporates by reference as if specifically set forth herein 83. Paragraphs 1 through 82 inclusive.

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- The violation of any law constitutes an unlawful business practice under Business 84. & Professions Code §17200.
- As detailed more fully in the preceding paragraphs, the acts and practices alleged 85. herein were intended to or did result in the sale of the Service in violation of the CLRA, Civil Code Section 1750, et seq., and specifically Section 1770(a)(5), Section 1770(a)(7), and Section 1770(a)(9).
- As detailed more fully above, Defendants have committed violations of Business 86. & Professions Code §17500 et seq. by knowingly disseminating and continuing to disseminate false and misleading advertisements regarding the Service.
- By violating the CLRA and Business & Professions Code §17500, Defendants 87. have engaged in unlawful business acts and practices which constitute unfair competition within the meaning of Business & Professions Code §17200.
- Under the CFAA, it is unlawful to knowingly and without authorization cause the 88. transmission of a program, information, code or command to a computer used for interstate commerce or communication, where such transmission causes damage, and the aggregate resulting loss is at least \$5,000 in value. 18 U.S.C. §1030(a)(5). By sending unauthorized secret messages to the computers of Plaintiff and the Class in order to block and/or impede their use of the Blocked Applications, Defendants have caused Plaintiff and the Class to suffer damage and loss as set forth above, in an aggregate amount in excess of \$5,000. Accordingly, Defendants have violated the CFAA.
- By violating the CFAA, Defendants have engaged in unlawful business acts and 89. practices which constitute unfair competition within the meaning of Business & Professions Code §17200.
- As detailed above, Defendants' practice of discriminating against use of the 90. Blocked Applications violates FCC Policy Statement, FCC 05-151. By violating the FCC policy, Defendants have engaged in unlawful business acts and practices which constitute unfair competition within the meaning of Business & Professions Code §17200.

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- 91. Plaintiff and the Class have all paid money for the Service. However, Plaintiff and the Class did not obtain the full value of the advertised Service due to Defendants' undisclosed obstruction of certain file sharing applications. Accordingly, Plaintiff and the Class have suffered injury in fact and lost money or property as a result of Defendants' acts of false advertising.
- 92. An action for injunctive relief and restitution is specifically authorized under Business & Professions Code §17203.

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

SEVENTH CAUSE OF ACTION

(Violations of Business & Professions Code §17200 et seq. Based on Unfair Acts and Practices)

- 93. Plaintiff realleges and incorporates by reference as if specifically set forth herein Paragraphs 1 through 92 inclusive.
- Under Business & Professions Code §17200, any business act or practice that is 94. unethical, oppressive, unscrupulous and/or substantially injurious to consumers, or that violates a legislatively declared policy, constitutes an unfair business act or practice.
- 95. Defendants have engaged, and continues to engage, in conduct which is immoral, unethical, oppressive, unscrupulous and/or substantially injurious to consumers. This conduct includes, but is not limited to misrepresenting that its customers enjoy unfettered access to all internet applications while at the same time severely limiting access to certain applications by sending hidden messages to its customers computers. Defendants deceive consumers into purchasing the Service in the mistaken belief that they will be able to utilize the Service for use of the Blocked Applications, while actively limiting and/or blocking such applications. Defendants' scheme was and is immoral, unethical, oppressive, unscrupulous and/or substantially injurious to consumers. The gravity of harm caused by Defendants' conduct as described herein far outweighs the utility, if any, of such conduct.
- 96. Defendants have engaged, and continue to engage, in conduct which violates the legislatively declared policy of the CLRA against misrepresenting the characteristics, uses,

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benefits, and quality of goods and services for sale. In addition, Defendants have engaged, and continue to engage in conduct which violates the policies behind the CFAA and FCC Policy 05-151.

- 97. By committing the acts alleged above, Defendants have engaged in unfair business acts and practices which constitute unfair competition within the meaning of Business & Professions Code §17200.
- 98. Plaintiff and the Class have all paid money for the Service. However, Plaintiff and the Class did not obtain the full value of the advertised Service due to Defendants' undisclosed obstruction of certain file sharing applications. Accordingly, Plaintiff and the Class have suffered injury in fact and lost money or property as a result of Defendants' acts of false advertising.
- 99. An action for injunctive relief and restitution is specifically authorized under Business & Professions Code §17203.

Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief against Defendants as follows:

- A. That the Court declare this a class action;
- B. That the Court preliminarily and permanently enjoin Defendants from conducting their businesses through the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in this Complaint;
- C. That the Court order Defendants to conduct a corrective advertising and information campaign advising consumers that the Service does not have the characteristics, uses, benefits, and quality Defendants have claimed;
- D. That the Court order Defendants to implement whatever measures are necessary to remedy the unlawful, unfair or fraudulent business acts or practices, untrue and misleading advertising and other violations of law described in this Complaint;

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JURY DEMAND

Plaintiff demands a trial by jury on all causes of action so triable.

DATED: November 13, 2007

Respectfully submitted,

LEXINGTON LAW GROUP, LLP

Mark N. Todzo, Esq. Attorneys for Plaintiff JON HART

Lexington Law Group, LLP Attn: Todzo, Mark N. 1627 Irving Street San Francisco, CA 94122		Comcast Of Alameda, Inc.	
L	J	L	
Superior Court		nia, County o la County Co	
	SUII TRIAINE		
Hart	ff/Petitioner(s)		o. RG07355993

To each party or to the attorney(s) of record for each party herein: Notice is hereby given that the above-entitled action has been set for:

Complex Determination Hearing Case Management Conference

You are hereby notified to appear at the following Court location on the date and time noted below:

Complex Determination Hearing:

DATE: 12/20/2007 TIME: 02:00 PM DEPARTMENT: 20

LOCATION: Administration Building, Fourth Floor

(Abbreviated Title)

1221 Oak Street, Oakland

Case Management Conference:

DATE: 01/24/2008 TIME: 02:00 PM DEPARTMENT: 20

LOCATION: Administration Building, Fourth Floor

1221 Oak Street, Oakland

NOV 2 1 2007

LEGALDIVISION

Pursuant to California Rules of Court, Rule 3.400 et seq. and Local Rule 4.2 (Unified Rules of the Superior Court, County of Alameda), the above-entitled matter is set for a Complex Litigation Determination Hearing and Initial Complex Case Management Conference.

Department 20 issues tentative rulings on DomainWeb (www.alameda.courts.ca.gov/domainweb). For parties lacking access to DomainWeb, the tentative ruling must be obtained from the clerk at (510) 267-6936. Please consult Appendix E to Local Rules 4 and 5 of the Unified Rules of the Superior Court, County of Alameda, concerning the tentative ruling procedures for Department 20.

Counsel or party requesting complex litigation designation is ordered to serve a copy of this notice on all parties omitted from this notice or brought into the action after this notice was mailed.

All counsel of record and any unrepresented parties are ordered to attend this Initial Complex Case Management Conference unless otherwise notified by the Court.

Failure to appear, comply with local rules or provide a Case Management Conference statement may result in sanctions.

All motions in this matter to be heard prior to Complex Litigation Determination Hearing must be scheduled for hearing in Department 20.

If the information contained in this notice requires change or clarification, please contact the courtroom clerk for Department 20 by e-mail at Dept.20@alameda.courts.ca.gov or by phone at (510) 267-6936.

TELEPHONIC COURT APPEARANCES at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties can make arrangements by calling (888) 882-6878, or faxing a service request form to (888) 883-2946. This service is subject to charges by the vendor.

Dated: 11/14/2007

Executive Officer / Clerk of the Superior Court

Ву

Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 11/14/2007.

Deputy Clerk

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Mark N. Todzo, State Bar No. 168389
Eric S. Somers, State Bar No. 139050
     1
     2
             Howard J. Hirsch, State Bar No. 213209
             Ryan Cabinte, State Bar No. 230792
LEXINGTON LAW GROUP, LLP
     3
             1627 Irving Street
             San Francisco, CA 94122
Telephone: (415) 759-4111
     4
    5
            Facsimile: (415) 759-4112
    6
             Attorneys for Plaintiff
            JON HART
    7
    8
    9
                                          IN THE SUPERIOR COURT OF THE STATE CALIFORNIA
  10
                                                                  FOR THE COUNTY OF ALAMEDA
 11
            JON HART, On Behalf of Himself and All Others
                                                                                                                              PROOF OF SERVICE
 12
            Similarly Situated, and On Behalf of the General
            Public.
 13
                                                                                                                              Case No.: RG 07-355993
                                                                                                   Plaintiff,
 14
 15
         COMCAST OF ALAMEDA, INC.; COMCAST OF CALIFORNIA II, INC.; COMCAST OF CALIFORNIA III, INC.; COMCAST OF CALIFORNIA IX, INC.; COMCAST OF CALIFORNIA V, INC.; COMCAST OF CALIFORNIA VI, INC.; COMCAST OF CALIFORNIA X, INC.; COMCAST OF CALIFORNIA XIII, INC.; COMCAST OF CALIFORNIA XIII, INC.; COMCAST OF CALIFORNIA XIII, INC.; COMCAST OF MARIN II, INC.; COMCAST OF MARIN II, INC.; COMCAST OF MARIN II, INC.; COMCAST OF NORTHERN CALIFORNIA I, INC.; COMCAST OF NORTHERN CALIFORNIA II, INC.; COMCAST OF SACRAMENTO I, LLC; COMCAST OF SACRAMENTO II, LLC; COMCAST OF SIERRA VALLEYS, INC.; and DOES 1-250
           COMCAST OF ALAMEDA, INC.; COMCAST OF
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           VALLEYS, INC.; and DOES 1-250
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                                                                                            Defendants.
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Hart v. Comcast of Alameda, Inc., et al. Alameda Superior Case No. RG 07-355993 SERVICE LIST

Chief Executive Officer Comcast of Alameda, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of California II, Inc. 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of California III, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of California IX, Inc. 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of California V, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of California VI, Inc. 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of California X, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of California XIII, Inc. 1500 Market Street Philadelphia, PA 19102
Brian L. Roberts Chief Executive Officer Comcast Corporation 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of Fresno, Inc. 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of Marin I, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of Marin II, Inc. 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of Northern California I, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of Northern California II, Inc. 1500 Market Street Philadelphia, PA 19102
Principal Comcast of Sacramento I, LLC 1500 Market Street Philadelphia, PA 19102	Principal Comcast of Sacramento II, LLC 1500 Market Street Philadelphia, PA 19102
Chief Executive Officer Comcast of San Leandro, Inc. 1500 Market Street Philadelphia, PA 19102	Chief Executive Officer Comcast of Sierra Valleys, Inc. 1500 Market Street Philadelphia, PA 19102

LEXINGTON LAW GROUP, LLP 1627 IRVING STREET SAN FRANCISCO, CALIFORNIA 94122

Tel.: (415) 759-4111

Fax: (415) 759-4112

NOV 19 2007

LEGALDIVISION

November 13, 2007

Via Certified Mail, Return Receipt Requested

Chief Executive Officer Comcast of Northern California I. Inc. 1500 Market Street Philadelphia, PA 19102

> Re: Consumers Legal Remedies Act Notice and Demand

Dear Sir or Madam:

We represent Jon Hart, on whose behalf we are sending this letter pursuant to California Civil Code §1782 in order to notify Comcast of Northern California I. Inc. ("Comcast") of the nature of his claim, and to demand curative action. Mr. Hart intends to pursue violations of California Civil Code §1770 (the Consumers Legal Remedies Act or "CLRA") against Comcast on behalf of himself and all other similarly situated consumers.

Specifically, Mr. Hart hereby notifies Comcast that Comcast has engaged in ongoing deceptive, unfair and unlawful conduct in connection with its high speed internet service. Comcast promises its customers and prospective customers internet access at "lightning fast" speed and that they will have "unfettered access to all the internet has to offer." Despite these promises, Comcast intentionally and severely limits the speed of certain internet applications such as peer-to-peer file sharing and lotus notes (the "Blocked Applications") used by Comcast's high speed internet service purchasers. Comcast's unauthorized interference with its customers' computers results in such customers' loss of use of their computers and high speed internet service.

The above acts and practices constitute violations of the following provisions of California Civil Code §1770, inter alia:

- In violation of Section 1770(a)(5) of the CLRA, Comcast's acts and practices constitute representations that the Comcast's high speed internet service has characteristics, uses and/or benefits which it does not:
- In violation of Section 1770(a)(7) of the CLRA, Comcast's acts and practices constitute representations that Comcast's high speed internet service is of a

CEO, Comcast of Northern California I, Inc. November 13, 2007

Page 2

particular quality which it is not; and

c. In violation of Section 1770(a)(9) of the Act, Comcast's acts and practices constitute the advertisement of Comcast's high speed internet service in question without the intent to sell them as advertised.

Pursuant to California Civil Code §1782, on behalf of himself and all similarly situated consumers, Mr. Hart hereby demands that Comcast correct and rectify its violations of California Civil Code §1770. Specifically, Mr. Hart demands that Comcast immediately undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

- Immediately identify or make a reasonable attempt to identify all
 persons in California who have purchased high speed internet
 service from Comcast since November 13, 2004 who have used or
 attempted to use any of the Blocked Applications;
- Immediately notify all such identified purchasers that upon their request Comcast shall make appropriate remedy for its wrongful actions, including payment for all damages, interests, and costs to all affected purchasers of Comcast's high speed internet service;
- 3. Immediately fulfill any requests received pursuant to number 2 above, including the payment of damages to all identified purchasers;
- 4. Immediately engage in a corrective advertising campaign to inform consumers in California that despite's Comcast's promises to provide unfettered high speed internet service to its customers, Comcast engaged in a practice of impeding its customers' access to the blocked applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications; and
- Immediately cease and refrain from its practice of impeding its customers' access to the blocked applications by transmitting unauthorized hidden messages to the computers of customers who utilize such applications.

If any of these items cannot be performed immediately, please state why it cannot be done immediately and promise to undertake such action within a reasonable time.

CEO, Comcast of Northern California I, Inc. November 13, 2007

Page 3

Mr. Hart intends to seek actual damages, punitive damages, and any other damages permitted under the Act if you do not provide a full and adequate response to this letter showing compliance with California Civil Code §1782(c) within 30 days.

Should you have any questions regarding this matter, please have your attorney contact me.

Yours very truly,

Mark N. Todzo

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

Filed 12/14/2007

Page 90 of 106

tase 3:07-cv-06350-PJH Document 1

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Defendants Comcast of Alameda, Inc., Comcast of California II, Inc., Comcast of California III, Inc., Comcast of California IX, Inc., Comcast of California V, Inc., Comcast of California VI, Inc., Comcast of California X, Inc., Comcast of California XIII, Inc., Comcast Corporation, Comcast of Fresno, Inc., Comcast of Marin I, Inc., Comcast of Marin II, Inc., Comcast of Northern California I, Inc., Comcast of Northern California II, Inc., Comcast of Sacramento I, LLC, Comcast of Sacramento II, LLC, Comcast of San Leandro, Inc., and Comcast of Sierra Valleys, Inc. (collectively, "Comcast"), for themselves and themselves alone, hereby answer and respond to Plaintiff's Complaint ("Complaint") as follows:

GENERAL DENIAL

Pursuant to Section 431.30(d) of the California Code of Civil Procedure, Comcast generally denies each and every allegation in the Complaint, and each purported cause of action therein, including, without limitation, that Plaintiff is entitled to any of the relief requested, that Comcast is liable for any alleged wrongful conduct or omission, and that any alleged conduct or omissions of Comcast, or any of its officers, directors, employees or agents, caused any alleged injury or damage to Plaintiff in the manner or amount alleged, or at all.

AFFIRMATIVE DEFENSES

Based on knowledge and information available to Comcast to date, Comcast is informed and believes and therefore sets forth the following affirmative defenses to Plaintiff's Complaint. By stating the matters set forth herein, Comcast does not allege or admit that it has the burden of proof and/or persuasion with respect to any of these matters, and does not assume the burden of proof or persuasion with respect to any matter as to which Plaintiff has the burden of proof or persuasion.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

The Complaint, and each cause of action and allegation therein, fails to state facts sufficient to constitute a cause of action upon which relief can be granted.

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RINKER BIDDLE & REATHELP 50 Fremont Street, 20th Floor an Francisco, CA 94105

SECOND AFFIRMATIVE DEFENSE

(Federal Preemption)

Under the preemption doctrines, including, but not limited to the doctrines of complete preemption, implied preemption, express preemption, field preemption and/or conflict preemption, Plaintiff fails to state facts sufficient to constitute a cause of action created by or recognized under any California statute, regulation or common law, because state law causes of action as alleged in the Complaint have been preempted in their entirety by federal law and regulations promulgated thereunder, including, but not limited to, the Federal Communications Act and orders and regulations of the Federal Communications Commission ("FCC").

THIRD AFFIRMATIVE DEFENSE

(Justifiable Actions)

Any conduct undertaken by Comcast concerning or relating to Plaintiff was in all respects fair, justified, or privileged and was done without malice, unlawful means or intent to injure Plaintiff or any other individual or entity.

FOURTH AFFIRMATIVE DEFENSE

(No Injury or Damage)

Comcast alleges that Plaintiff has not suffered any injury or damage, and denies that it is liable to Plaintiff for any injury or damage claimed or for any injury or damage whatsoever.

FIFTH AFFIRMATIVE DEFENSE

(Lack of Standing)

Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks standing to assert any or all of the causes of action alleged in the Complaint and lacks standing to recover individually and/or on behalf of the general public and/or the putative class.

SIXTH AFFIRMATIVE DEFENSE

(Contributory Negligence)

Plaintiff's claims are barred, in whole or in part, by the doctrine of contributory negligence because Plaintiff's own conduct caused and/or contributed to his alleged injuries.

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SEVENTH AFFIRMATIVE DEFENSE

(Comparative Fault)

Plaintiff's claims are barred, in whole or in part, by the doctrine of comparative fault because Plaintiff's own conduct caused and/or contributed to his alleged injuries.

EIGHTH AFFIRMATIVE DEFENSE

(Assumption of the Risk)

Plaintiff's claims are barred, in whole or in part, by the doctrine of assumption of the risk because Plaintiff's own conduct caused and/or contributed to his alleged injuries.

NINTH AFFIRMATIVE DEFENSE

(Intervening Acts of Others/Superseding Causes or Circumstances)

To the extent Plaintiff has suffered any injury or damage, which Comcast denies, such injury or damage was caused by persons and entities other than Comcast or by superseding causes or circumstances. Such intervening and superseding conduct of others and causes or circumstances bars and/or diminishes recovery, if any, by Plaintiff or any member of the general public or any class against Comcast.

TENTH AFFIRMATIVE DEFENSE

(No Reliance)

Plaintiff's claims are barred, in whole or in part, because Plaintiff did not rely on the statements or omissions of which Plaintiff now complains.

ELEVENTH AFFIRMATIVE DEFENSE

(Ratification/Benefits Realized)

Plaintiff has enjoyed the benefits of the products that are the subject of the Complaint, and is thereby barred, in whole or in part, from pursuing one or more of the claims for relief set forth in the Complaint.

TWELFTH AFFIRMATIVE DEFENSE

(Equitable Doctrines)

Plaintiff's claims are barred, in whole or in part, by equitable doctrines including, but not limited to, the doctrines of waiver, estoppel, equitable estoppel, laches and failure to read.

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THIRTEENTH AFFIRMATIVE DEFENSE

(Voluntary Payment Doctrine)

Plaintiff is barred from recovering, in whole or in part, based on the voluntary payment doctrine.

FOURTEENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

FIFTEENTH AFFIRMATIVE DEFENSE

(Acquiescence)

Plaintiff's claims are barred, in whole or in part, by the equitable doctrine of acquiescence.

SIXTEENTH AFFIRMATIVE DEFENSE

(Ratification/Consent)

Plaintiff's claims are barred, in whole or in part, because Plaintiff approved all the acts and omissions about which he now complains. In addition to other manifestations of consent, Plaintiff agreed to be bound by the terms and conditions and/or limitations on liability of Comcast's Agreement for Residential Services and Acceptable Use Policy when Plaintiff used the services provided by Comcast.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Wrongful Acts of Plaintiff)

Based on the allegations of Plaintiff's Complaint, it appears that Plaintiff intentionally or recklessly disregarded his own interests, through action or inaction, and/or violated the terms of Comcast's Agreement for Residential Services and Acceptable Use Policy and/or otherwise committed wrongdoing, and that such acts and/or omissions were the proximate cause of all or some of Plaintiff's injuries, if any. By reason of the foregoing, Plaintiff is barred, in whole or in part, from recovering any amounts in this proceeding.

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EIGHTEENTH AFFIRMATIVE DEFENSE

(Subject Matter Jurisdiction)

The Court lacks jurisdiction over some or all of the claims in Plaintiff's Complaint.

NINETEENTH AFFIRMATIVE DEFENSE

(Plaintiff's Claims Unconstitutional)

Plaintiff's claims are barred, in whole or in part, because they are in contravention of Comcast's rights under applicable clauses of the United States and California Constitutions, including without limitation, including, but not limited to the fact that: (a) Plaintiff's claims constitute an impermissible burden on interstate commerce in violation of Article I, Section 8 of the United States Constitution; (b) said claims violate the Excessive Fines Clause of the Eighth Amendment to the United States Constitution; (c) said claims violate Comcast's right to Due Process under the Fourteenth Amendment to the United States Constitution and under the California Constitution; (d) said claims contravene the constitutional prohibition against vague and overbroad laws; (e) said claims reflect an unlawful delegation of prosecutorial power to private parties in violation of Article II of the United States Constitution, the separation of powers doctrine, and the provisions of Article V of the California Constitution; and (f) an award on said claims would work an unlawful taking of property in violation of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 19 of the California Constitution.

TWENTIETH AFFIRMATIVE DEFENSE

(Restitution Unconstitutional)

Any award of restitution under Cal. Bus. & Prof. Code § 17203: (a) would violate the Excessive Fines Clauses of the Eighth Amendment (as incorporated by the Due Process Clause of the Fourteenth Amendment) to the United States Constitution and of Article I, Section 17 of the California Constitution; (b) would violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and of Article I, section 7 of the California Constitution, because the standards of liability under these statutes are unduly vague and subjective, and permit retroactive, random, arbitrary, and capricious punishment that serves no

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DRINKER BIDDLE & REATH LLP 50 Fremont Street, 20th Floor San Francisco, CA 94105 legitimate governmental interest; and, (c) would constitute a taking of property without just compensation in violation of the Takings Clauses of the Fifth Amendment of the United States Constitution (as incorporated by the Due Process Clause of the Fourteenth Amendment to the United States Constitution), and of Article I, Section 19 of the California Constitution.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Constitutional Defects with Punitive Damages)

Any award of punitive damages in this case (a) would violate the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution, and of Article I, section 7 of the California Constitution, and would constitute excessive fines under the Excessive Fines Clauses of the Eighth Amendment (as incorporated by the Due Process Clause of the Fourteenth Amendment) to the United States Constitution; (b) would violate the Fourth, Fifth and Sixth Amendments and the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution; (c) would violate the Contracts Clauses of the United States and California Constitutions.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Award of Damages to Those Who Will Not Acknowledge Full Settlement of Claims Unconstitutional)

Any award of damages, restitution or disgorgement under the California Business & Professions Code or the California Civil Code to Plaintiff and/or any putative class member who refuses to execute an acknowledgment that the payment is in full settlement of claims against Comcast would violate the Due Process Clauses of the United States and California Constitutions and the Excessive Fines Clause of the California Constitution.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Constitutional Defect with Award to Those Not Damaged)

To the extent Plaintiff purports to seek relief on behalf of any person who has not suffered any damages, the Complaint and each claim for relief therein violates the right of Comcast to due process under the California and United States Constitutions.

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TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Proper Parties)

Plaintiff's claims are barred, in whole or in part, to the extent that they are asserted against Defendants that are not proper parties to this action. Defendants reserve the right to seek dismissal of such parties at a later stage in this proceeding.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Right to Arbitration)

To the extent Plaintiff and/or putative class members are parties to valid agreements to arbitrate, their claims are not properly brought in this Court.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

Plaintiff's claims are barred, in whole or in part, by applicable statutes of limitation, including, but not limited to, Cal. Bus. & Prof. Code § 17208, Cal. Code of Civil Procedure §§ 337, 338 and 343 and Cal. Civil Code § 1783, and those set forth in Comcast's Residential Service Agreement.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(Class Action Inappropriate)

Plaintiff's claims are barred, in whole or in part, because this case is not appropriate for class action treatment.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Not a Proper Representative)

Plaintiff's claims are barred, in whole or in part, because Plaintiff is not a proper representative to bring this action on behalf of the general public or any proposed class.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Adequate Remedy At Law)

Plaintiff is not entitled to equitable relief because Plaintiff has adequate remedies at law, and/or the equitable relief sought is neither necessary nor proper under applicable law.

THIRTIETH AFFIRMATIVE DEFENSE

(No Restitution or Disgorgement)

To the extent Plaintiff suffered any injury or damage, which Comcast denies, Plaintiff is not entitled to restitution or disgorgement of profits under Bus. & Prof. Code Sections 17200, et seq.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(No Attorneys' Fees)

To the extent Plaintiff seeks recovery of attorneys' fees, such fees are not recoverable.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(No Punitive Damages)

To the extent Plaintiff seeks recovery of punitive damages, such damages are not recoverable.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Uncertain/Unmanageable Damages)

Plaintiff's claims are barred, in whole or in part, because Plaintiff's requested monetary relief, if any, is too speculative and/or too remote and/or impossible to prove and/or allocate.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

To the extent Plaintiff suffered any injury or damages, which Comcast denies, Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to mitigate his damages or by of the doctrine of avoidable consequences.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

(Election of Remedies)

Plaintiff seeks mutually inconsistent remedies, thereby prejudicing Comcast.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

(Business Judgment/Lawful Practice)

The challenged conduct constitutes a reasonable exercise of business judgment which is not forbidden by law.

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THIRTY-SEVENTH AFFIRMATIVE DEFENSE

(Requirements Under Residential Service Agreement)

Plaintiff's claims for damages are barred, in whole or in part, by the terms of Comcast's Residential Service Agreement.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

(Requirements Under Acceptable Use Policy)

Plaintiff's claims for damages are barred, in whole or in part, by the terms of Comcast's Acceptable Use Policy.

THIRTY-NINTH AFFIRMATIVE DEFENSE

(Failure to Plead With Certainty and Particularity)

The allegations of the Complaint, and each purported cause of action alleged in the Complaint, are not pleaded with sufficient particularity, are uncertain, vague, ambiguous and unintelligible, and fail to meet applicable pleading requirements.

FORTIETH AFFIRMATIVE DEFENSE

(Conduct Not Unfair)

Plaintiff's claims that Comcast violated the "unfair prong" of Cal. Bus. & Prof. Code Sections 17200, et seq. fail because the utility of Comcast's conduct outweighs any harm allegedly suffered by Plaintiff.

FORTY-FIRST AFFIRMATIVE DEFENSE

(Reasonably Available Alternative)

Plaintiff's claims that Comcast violated the "unfair prong" of Cal. Bus. & Prof. Code Sections 17200, et seq. fail because Plaintiff had reasonably available alternative sources of supply from which to purchase non-offending products.

FORTY-SECOND AFFIRMATIVE DEFENSE

(Lack of Consumer Confusion)

Plaintiff's claims that Comcast violated the "deceptive and fraudulent prong" of Cal. Bus. & Prof. Code Sections 17200, et seq. fail because Comcast's practices and advertisements were not likely to, and did not in fact, mislead Plaintiff and/or members of the general public or the

FORTY-EIGHTH AFFIRMATIVE DEFENSE

(Mootness)

Plaintiff's claims are barred, in whole or in part, by the doctrine of mootness.

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FORTY-NINTH AFFIRMATIVE DEFENSE

(Exhaustion)

Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to exhaust his administrative remedies.

FIFTIETH AFFIRMATIVE DEFENSE

(Governmental Compliance)

Plaintiff's claims are barred, in whole or in part, based on Comcast's compliance with governmental regulations and/or requirements.

FIFTY-FIRST AFFIRMATIVE DEFENSE

(CLRA Procedural Defects)

Plaintiff's claims for alleged violations of the Consumer Legal Remedies Act ("CLRA") are barred, in whole or in part, based on Plaintiff's failure to satisfy the statute's procedural requirements.

FIFTY-SECOND AFFIRMATIVE DEFENSE

(Set Off and/or Recoupment)

To the extent that any of Plaintiff's claims have merit, which Comcast expressly denies, Plaintiff's recovery must be reduced or set off by any restitutionary or other monetary relief to which Comcast is entitled from Plaintiff and/or each putative class member. Comcast is entitled to offset and recoup against any judgment that may be entered for Plaintiff and/or each putative class member for all obligations owing by Plaintiff and/or each putative class member to Comcast, including but not limited to any unpaid account balances and/or any damages incurred in connection with any termination of contracts between Comcast and Plaintiff and/or any member of the putative class.

FIFTY-THIRD AFFIRMATIVE DEFENSE

(Reservation of Rights)

Comcast does not currently have sufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, defenses or counterclaims available.

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1 Comcast expressly reserves its right to assert additional affirmative defenses or counterclaims 2 which come to light as the action progresses. In particular, Comcast is informed and believes, 3 and on that basis alleges, that the putative class alleged in the Complaint would, if certified by 4 the Court, include class members who breached their agreements with Comcast and failed to pay 5 amounts due and owing to Comcast under the terms of their agreements. Comcast contends that 6 this matter is not properly certifiable as a class action. In the event that the Court certifies a 7 class, however, Comcast reserves the right to assert counterclaims against such class members. 8 PRAYER FOR RELIEF 9 WHEREFORE, Comcast respectfully prays for judgment as follows:

- 1. That Plaintiff's Complaint be dismissed with prejudice and judgment entered in favor of Comcast;
- 2. That Plaintiff, any member of the putative class and/or the general public take nothing by the Complaint;
- 3. That Comcast be awarded its reasonable attorneys' fees and costs of this action; and;

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1	4. That Comcast be awarded such other and further relief as the Court deems just		
2	and proper.		
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4	Dated: December 4, 2007	DRINKER BIDDLE & REATH LLP	
5		anglish	
6		MICHAEL J. STORTZ	
. 7		Attorney for Defendants COMCAST OF ALAMEDA, INC.;	
8		COMCAST OF CALIFORNIA II, INC.; COMCAST OF CALIFORNIA III, INC.;	
9		COMCAST OF CALIFORNIA IX INC.; COMCAST OF CALIFORNIA V INC.;	
10		COMCAST OF CALIFORNIA VI INC.; COMCAST OF CALIFORNIA X INC.;	
11		COMCAST OF CALIFORNIA XIII INC.; COMCAST CORPORATION; COMCAST	
12		OF FRESNO, INC.; COMCAST OF MARIN I, INC.; COMCAST OF MARIN II, INC.;	
13		COMCAST OF NORTHERN CALIFORNIA I, INC.; COMCAST OF NORTHERN	
14		CALIFORNIA II, INC.; COMCAST OF SACRAMENTO I, LLC; COMCAST OF	
15		SACRAMENTO IÍ, LLĆ; COMCAST OF SAN LEANDRO, INC.; COMCAST OF	
16		SIERRA VALLEYS, INC.	
17	Of Counsel		
18	Seamus C. Duffy Michael W. McTigue Jr.		
19	Michael P. Daly Drinker Biddle & Reath Llp		
20	One Logan Square 18th & Cherry Streets Philadelphia, Pennsylvania 19103-6996 Telephone: (215) 988-2700 Facsimile: (215) 988-2757	•	
21	Philadelphia, Pennsylvania 19103-6996 Telephone: (215) 988-2700		
22	Facsimile: (215) 988-2757		
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28 Dranker Biddle & Reath LLP			
50 Fremont Street, 20th Floor San Francisco, CA 94105	·	1.4	

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CERTIFICATE OF SERVICE

I, CAMELIA SANCHEZ, declare that:

I am at least 18 years of age, and not a party to the above-entitled action. My business address is 50 Fremont Street, 20th Floor, San Francisco, California 94105, Telephone: (415) 591-7500.

On December 14, 2007, I caused to be served the following document(s):

NOTICE OF FILING / NOTICE OF REMOVAL

by enclosing a true copy of (each of) said document(s) in (an) envelope(s), addressed as follows:

- BY MAIL: I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Francisco, California.
- BY PERSONAL SERVICE: I caused such envelopes to be delivered by a messenger service by hand to the address(es) listed below:
- $\overline{\mathbf{V}}$ BY OVERNIGHT DELIVERY: I enclosed a true copy of said document(s) in a Federal Express envelope, addressed as follows:
- BY FACSIMILE: I caused such documents to be transmitted by facsimile transmission and mail as indicated above.

Mark N. Todzo, Esq.

Eric S. Somers, Esq. LEXINGTON LAW GROUP, LLP

1627 Irving Street

San Francisco, CA 94122

Telephone: (415) 759-4111 Facsimile: (415) 759-4112

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 14, 2007 at San Francisco, California.

CAMELIA SANC

28 DRINKER BIDDLE & REATH LLP 50 Fremont Street, 20th Floo San Francisco, CA 94105